



OFFICIAL REPORT
AITHISG OIFIGEIL

Criminal Justice Committee

Wednesday 25 May 2022

Session 6



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CRIMINAL JUSTICE COMMITTEE

17th Meeting 2022, Session 6

CONVENER

*Audrey Nicoll (Aberdeen South and North Kincardine) (SNP)

DEPUTY CONVENER

*Russell Findlay (West Scotland) (Con)

COMMITTEE MEMBERS

- *Katy Clark (West Scotland) (Lab)
- *Jamie Greene (West Scotland) (Con)
- *Fulton MacGregor (Coatbridge and Chryston) (SNP)
- *Rona Mackay (Strathkelvin and Bearsden) (SNP)
- *Pauline McNeill (Glasgow) (Lab)
- *Collette Stevenson (East Kilbride) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Ash Regan (Minister for Community Safety)

CLERK TO THE COMMITTEE

Stephen Imrie (Clerk)

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 25 May 2022

[The Convener opened the meeting at 09:16]

Fireworks and Pyrotechnic Articles (Scotland) Bill: Stage 2

The Convener (Audrey Nicoll): A very good morning, and welcome to the 17th meeting in 2022 of the Criminal Justice Committee. There are no apologies.

Agenda item 1 is consideration of the Fireworks and Pyrotechnic Articles (Scotland) Bill at stage 2. I ask members to refer to their copy of the bill, the marshalled list of amendments and the groupings of amendments.

I welcome the Minister for Community Safety, Ash Regan, and her officials to the meeting. I remind the officials that they are there to assist the minister during the stage 2 debate and that they are not permitted to participate in it. For that reason, members should not direct any questions to them.

Section 1—Meaning of “firework” and “pyrotechnic article”

The Convener: Amendment 11, in the name of the minister, is grouped with amendments 12 and 13.

The Minister for Community Safety (Ash Regan): Good morning. The provisions in the bill are designed to tackle the danger to public safety and wellbeing caused specifically by pyrotechnic and fireworks misuse. It is therefore very important that the bill is clear on what articles it covers and that it provides, where necessary, additional clarity and reassurance about that.

The Government amendments in the group seek to provide that additional clarity and reassurance in relation to the definition of “pyrotechnic article” in section 1. By expressly excluding ammunition items from the definition, amendment 11 will ensure that the bill does not unintentionally capture ammunition or give the impression that it does.

Amendment 12 is a technical amendment.

Amendment 13 will enable ministers to add, amend or remove in the future articles that should not be treated as pyrotechnic articles for the purpose of the bill. The amendment will therefore future proof the legislation and enable ministers to explicitly exclude in future any other articles that

are, or could be seen to be, unintentionally captured by the offences. It will also allow the definition to be narrowed to reflect future technical innovations.

I move amendment 11.

Amendment 11 agreed to.

Amendments 12 and 13 moved—[Ash Regan]—and agreed to.

Section 1, as amended, agreed to.

Section 2—Categories of fireworks

The Convener: Amendment 58, in the name of Jamie Greene, is grouped with amendments 14, 47 to 49, 18, 50, 51, 19 to 21, 89, 52 and 53.

Jamie Greene (West Scotland) (Con): Good morning, minister and colleagues. As you can see, I have lodged a number of amendments so I will try to make my points concisely and sensibly.

Amendment 58 is one of a number of amendments through which I am seeking to change references to the negative procedure to references to the affirmative procedure. That will pop up in various groupings that we will debate today. Essentially, all the amendments seek to serve the same purpose, which is to increase scrutiny by ensuring that regulations are approved under the affirmative procedure, ideally by the Criminal Justice Committee, thus allowing members of the committee of all shapes and colours the opportunity to reflect on future Government actions.

As committee members know, the negative procedure is often, unfortunately, a bit of a shoo-in when it comes to making changes in regulations. We saw that only last week when we reflected on a Scottish statutory instrument under the negative procedure with very little discussion and debate, and with no member of the Government present or any method by which to vote on the subject of the instrument. That issue crops up frequently, not just in this committee but in many others.

In this case, the regulations made under section 2(2)(a) will be subject to the affirmative procedure, and that is welcome, although those made under section 2(2)(b) will not be. In the spirit of consistency therefore, I have sought to alter that. That will crop up as a theme in future groupings, and I hope that the Government will reflect on the committee’s request to further enhance the bill as we go through the process, given the fact that so many of the provisions will appear in secondary legislation and not in the bill itself, which is another issue that cropped up in our stage 1 report.

My other amendment in the group is amendment 89, which essentially seeks to further enhance the list of suitable parties whom the

Government must consult when it is drafting certain regulations under the bill. In this instance, it relates specifically to those who might be likely to be affected by the licensing of fireworks as a matter of principle. In amendment 89, I have listed specifically and overtly who I believe the Government ought to consult, including community groups that might have a view on the future of the fireworks regulations and licensing scheme; charities, many of which made representation to the committee during the process, as well as those that did not and are still finding out about the process and the passage of the bill; retail groups, be they physical or virtual or online, for obvious reasons; industry organisations and trade bodies, which have provided invaluable feedback on the bill's proposals, and which know their industry best; and religious groups and organisations, which will play a large part in the restrictions on the use of fireworks as proposed by the Government in the bill as drafted, specifically the use of fireworks on the restrictive dates that have been proposed, which we will come on to later.

In my view, too few organisations have had a full and proper say on the bill's content, although not on the premise of the bill—we all accept that the consultation was extensive and expansive and we all know that there is a strong feeling that we want to do something. However, even as we are sitting here during stage 2, people are still coming out of the woodwork who want to have a say on the content of the bill because the devil is very much in the detail. They must all have a good chance to share their views, which is why I have sought to expand the list of consultees. It is neither exhaustive nor limited. The Government would also have the flexibility to add consultees to the list as it deemed fit, which is entirely appropriate.

With regard to the other amendments in the group, I have sympathy with some of the proposals from Katy Clark, which I hope are in line with mine in their aim to strengthen the procedure by changing it from the negative to the affirmative. We will, no doubt, hear from her shortly. Our view is that the purpose and intent of amendment 52 remain unclear, so I will reserve judgment on it until she has spoken and I might address it in summing up.

We are also happy to support the Government amendments in the group, with the exception of amendment 20, because, on first reading, its purpose and effect on the bill are unclear. It says:

“In section 18, page 8, leave out line 34”.

The effect is to remove ministers' power to make further provision by regulation

“in relation to the fireworks licence (for example, specifying its form and content).”

It is unclear why amendment 20 removes section 18(2)(c). I have no further comments on the amendments in the group.

I move amendment 58.

The Convener: The minister will speak to amendment 14 and other amendments in the group.

Ash Regan: The Delegated Powers and Law Reform Committee recommended that the broad regulation-making powers at section 18(1) should be subject to the affirmative procedure. I welcome the committee's recommendation, and amendment 21, in my name, gives effect to that. However, I believe that section 18 also contains powers on administrative and operational points of detail, to which it would be disproportionate to apply the affirmative procedure.

Therefore, amendments 14, 18, 19 and 20 make adjustments to other sections to ensure that the change does not disproportionately impact on the administration and operation of the licensing system, while ensuring that enhanced scrutiny applies if section 18 is used to make any further provision about licensing that might be required.

I believe that, collectively, these amendments reflect the DPLR Committee's recommendation, so I hope that committee members will recognise the balance that is being struck and will support the amendments.

With regard to the other amendments in the group, amendment 58, in Mr Greene's name, seeks to make the regulation-making power about persons with “specialist knowledge” at section 2(2)(b) subject to the affirmative procedure.

Where the DPLRC has recommended a change of procedure, I have lodged an amendment to ensure that Parliament is afforded the appropriate levels of scrutiny. I do not consider that the affirmative procedure would be appropriate or necessary for section 2(2)(b). That section provides Scottish ministers with the power to make further provision in respect of persons demonstrating “specialist knowledge” for the purposes of the definition of a category F4 firework.

The requirements for specialist knowledge are currently set out in the Pyrotechnic Articles (Safety) Regulations 2015. The power in section 2(2)(b) should be required only if we need to respond to any changes to the requirements made by the United Kingdom Government on such persons, to ensure that high-hazard fireworks remain subject to the required stringent safety measures.

That provision does not enable amendment of the bill. The requirements are technical in nature, and it is appropriate that regulations to change

them are subject to the negative procedure. Therefore, I hope that members do not support amendment 58.

Amendment 89 seeks to include a list of specific groups that the Scottish ministers must consult when making regulations about the licensing system. The bill sets out that the Scottish ministers must consult those who

“are likely to be interested in or affected by”

the licensing system. That was deliberately drafted to ensure that a wide-ranging and effective consultation takes place.

It was always intended that the listed groups would form part of a wide-ranging consultation on regulations. However, I believe that actively identifying and engaging with groups who are most likely to be affected is a more effective approach than listing a limited number of groups in the bill. Therefore, I do not support amendment 89.

I ask Mr Greene not to press amendment 58 and not to move amendment 89. If he does, I hope that the committee does not support them.

Amendments 47 to 51 seek to make a change so that the regulation-making powers in part 2 of the bill that are currently subject to the negative procedure are subject to the affirmative procedure instead. The consultation requirement set out at section 19 means that Scottish ministers will have a duty to consult before making any regulations under part 2. That provides the opportunity to gather views on proposals for what may be included in the regulations, such as, for example, the licence fee.

09:30

It is not intended that any of those powers will be used frequently. However, when they are used to set out administrative or operational detail in the system, it is necessary that that is done in a timely manner in order for the system to continue to operate efficiently and at an optimum level. I do not consider the affirmative procedure suitable or proportionate for those types of regulations and, as such, it would not be a good use of valuable parliamentary time.

On amendment 52, the regulations made under section 3 are already subject to the affirmative procedure. The provision is a technical regulation-making power, which will be used if necessary, to adapt to changes to the categorisation of fireworks or if new classifications or types of fireworks enter the market. It is important to be able to utilise such a power in a timely manner and ensure that the system covers relevant fireworks. That is paramount in ensuring safety and that the system operates as required.

If the power is used, relevant stakeholders such as the fireworks industry, experts or trading standards will be consulted. However, it is not necessary to include that in the duty to consult under section 19.

Amendment 53 seeks to include a new section setting out certain requirements for Scottish ministers before laying regulations in relation to part 2 of the bill and the licensing system. I am open to enhancing parliamentary scrutiny of the licensing system. I have demonstrated that by accepting the DPLR Committee’s recommendations and having included a requirement to consult on regulations about licensing from the start. However, the matters to be covered in regulations under this part of the bill are not of a nature that require such a super-affirmative procedure, which amendment 53 would apply. In most cases, there are powers to set out operational details or administrative procedure.

I urge Ms Clark not to move her amendments, but if she does do so I ask the committee to reject them.

Katy Clark (West Scotland) (Lab): The amendments in my name address two sets of issues, and both would enhance the parliamentary scrutiny required for any secondary legislation for a licensing scheme. Amendment 47, and the related amendments, would change the process from a negative process to an affirmative process, similar to that outlined by Jamie Greene in relation to amendment 58 and the other amendments in his name.

However, my primary amendment—amendment 53—goes further, in that it would make provision for a more detailed pre-laying procedure, which would require the Government to lay draft regulations before the Parliament. The Scottish Government would also be required, before finalising regulations, to seek the view of the Parliament’s justice committee on the terms of the regulations. I believe that that is appropriate given the level of interest and the work that the committee has already been involved in. It is also appropriate given the concerns that we raised in our report.

Amendment 53 would offer the possibility of enhanced parliamentary scrutiny of any regulations. The minister has already spoken about some of the issues in relation to consultation. Amendment 53 is more focused on parliamentary scrutiny of regulations rather than a consultation process with outside bodies, although I support Jamie Greene’s proposal in relation to consultation and welcome the minister’s comments on enhanced consultation on those issues.

The principle of the amendments in my name is that the committee should have a meaningful role in the scrutiny of the regulations, with sufficient time to seek its own views or to take evidence should it wish to do so. Amendment 53 says that the regulations should be laid

“before the Parliament for a period of 120 days, of which no fewer than 60 days must be days which the Parliament is not dissolved or in recess”.

I would be quite happy to consider other timescales if that is problematic.

The principle is not to set the number of days—that is a matter of practicality—but to give the committee the opportunity to undertake effective parliamentary scrutiny. I have lodged my amendments so that we can consider how we ensure that any regulations that are introduced are robust and workable, and do not lead to the kind of problems that the committee has spent weeks hearing evidence about and considering.

Jamie Greene: I hear what the minister says about changing from the negative procedure to the affirmative, and the balanced judgment that has to be made about which process is used. However, I would question whether the affirmative procedure would have a disproportionate impact on the work of the committee or indeed on the committee’s time. I would argue that it is for the committee to decide how we use our time, and not the Government. I do not believe that using the affirmative procedure would disproportionately impact the committee. We can easily and quickly process affirmative instruments, with due process—we do it weekly.

The problem with the negative procedure, as a principle, as the minister well knows, is that it leaves little room for manoeuvre. With any form of secondary legislation, there is limited opportunity to have full and proper debate, and it is virtually impossible to consult wider stakeholders, which is why I am quite drawn to the pre-laying procedure, although I am not quite sure where that fits in with parliamentary process.

What struck me throughout our deliberations on the bill at stage 1 is that what we do in this room is often not well publicised outside it. It is only when people catch the wind of where things are heading that they get in touch with the committee and want to consult us about their concerns. That was quite apparent with the stage 1 report, when there was limited opportunity for consultation between the publication of the report and the stage 1 debate and vote in the chamber. Even on the day of the debate, people were getting in touch with members with concerns about the content of the stage 1 report. The same is true with any regulations that come before us, some of which, unfortunately, introduce a lot of known unknowns.

I will press amendment 58 and ask the committee to strengthen its scrutiny ability. If anyone on the committee feels otherwise, I would be intrigued to hear why.

On the issue of consultation, there is always the danger of starting to create lists. We have this conversation every time we do a stage 2. However, in this instance, given the specific nature of what the bill does and who it affects directly, it is entirely appropriate to hear from the organisations that I have overtly listed. It is not an exhaustive list—it is not saying that we must consult only those people. The bill will say that they “must” be consulted. The problem with leaving it open, and saying that the Government must do wide-ranging consultation, or whatever other proposal is in the bill, is that that is true only if those people are genuinely consulted. It is quite clear—it became apparent throughout stage 1—that not all of them have been consulted. In order to ensure that those people are consulted, I want them included in the bill. It is as simple as that. I do not understand why we would not want to hear from religious groups, trade bodies, charities and community groups, who are the very people who will be most directly affected by the bill. By listing those people in black and white in the bill, we will ensure that they have a voice in future secondary legislation.

I appreciate that, because I am summing up, the minister is probably unable to come back on those points. However, at any point today, the minister is welcome to intervene, and to question, agree with or disagree with what I am saying.

I listened to Katy Clark’s arguments and I am happy to support all her amendments.

The Convener: The question is, that amendment 58 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0.

There is an equality of votes. Therefore, as convener, I will use my casting vote against the amendment.

Amendment 58 disagreed to.

Pauline McNeill (Glasgow) (Lab): On a point of order, convener. I seek clarification from the clerks. Does the convener not normally have to say how they intend to use their casting vote, so that we know that? I thought that there was a convention on that, so that members know what to expect. In meetings of the Parliament, the Presiding Officer votes for the status quo.

Stephen Imrie (Clerk): There is no convention on how the convener should use his or her casting vote in a committee, unlike with the Presiding Officer, who normally votes for the status quo in the chamber. Of course, it is up to the convener if she wants at any point in proceedings to make it clear how she intends to use her casting vote throughout proceedings or to just make it clear on each occasion that she uses it. That is a matter for the convener.

Pauline McNeill: Thank you.

Section 2 agreed to.

After section 2

The Convener: Amendment 59, in the name of Jamie Greene, is in a group on its own.

Jamie Greene: I am keen to hear what other members think about amendment 59. I know that you are all shy this morning and it is early, but it is important that we have a proper debate about the issues.

The amendment does a number of things. It is a whole page in length, but it is fairly self-explanatory. First, it would require ministers to review current legislation

“in so far as it relates to the supply and use of fireworks and pyrotechnic articles”.

That is the important bit.

Secondly, ministers would have to determine, as a result of that review, whether any part of the legislation requires to be repealed as a result of the introduction of the bill, and whether any legislation must be introduced to address any gaps in existing legislation.

I should put on record a huge amount of thanks to the parliamentary legislation team for helping members to produce amendments. Through that team’s research and kind assistance, the amendment includes a list of the legislation that is most commonly used in the charging or prosecution of offenders relating to the illegal sale or misuse of fireworks and pyrotechnics. The list is not exhaustive. Proposed subsection (3)(j) would allow ministers to amend the list, where that is deemed appropriate.

That is the what, but I guess that the main question is about the why. It became apparent to committee members from the feedback from

stakeholders that, rightly, we already have a large number of laws that regulate the use, sale and purchase of fireworks. However, we also heard that the reality is that those laws are not being used to their full extent. The evidence for that is abundant and self-explanatory—the numbers speak for themselves. For example, we know that it is already illegal under existing legislation to use a firework as a weapon, to use a firework for antisocial behaviour or to use a firework to attack emergency service workers. We also took evidence on that latter issue, and I hope that the committee agrees that we need to tackle it.

The problem is that we are seeking to introduce new legislation without a proper and full review of what is already in the public domain and how effectively we are using existing legislation to deal with the problems that the bill, in essence, seeks to deal with. Those issues are the misuse of fireworks, antisocial behaviour involving them and their illegal sale.

09:45

Over the past five years, Police Scotland have recorded more than 6,000 incidents involving the misuse of fireworks. That is quite a lot. Of those 6,000 incidents, 518 were recorded under the Explosive Substances Act 1883 and other pieces of legislation that relate, among other matters, to the keeping and supplying of explosives. Over that five-year period, arising from those incidents, only 136 charges were brought and, of those, only 16 resulted in a conviction. There is clearly a disproportionate ratio of incidents to criminal charges, prosecution and successful conviction. We will come to the issue of convictions in a subsequent group of amendments.

In fact, it has been impossible for the committee to quantify the scale of the problem of nuisance complaints about fireworks to the 101 number, via 999 to emergency services, to local authorities or to trading standards. However, we know that the conversion rate of incidents recorded to successful prosecution is pitiful. We might not have to rush the bill through in the way that we are if we used the laws that exist to their fullest extent. Amendment 59 asks the Government to do that.

In fact, in its evidence to the committee, the Scottish Community Safety Network questioned whether further legislation was needed at all. It said that

“New restrictions ... specify limits to the quantities of fireworks that can be sold, the times of sale, and times of use. Therefore, we suggest these measures are given adequate time to bed-in and take effect. This might help government, local authorities and industry measure the impact and inform which – if any – of the additional proposed restrictions are needed.”

We have listed specific laws in the amendment, including the Public Order Act 1986, which covers the majority of breach of the peace offences and offences relating to the use of dangerous items in a public place. My colleague Russell Findlay has lodged other amendments, which he will speak to later, that relate to widening the scope for offences that could or should bar people from owning a fireworks licence. We will come to that matter. However, what we are asking is not onerous. We want the Government to prepare and publish a review of the existing legislation specifically in relation to the sale and use—or indeed misuse—of fireworks and lay before the Parliament a report, presumably for debate and scrutiny. One would think that the Government would want to proactively maintain oversight of the use of laws that govern fireworks and pyrotechnics.

Although we have no ideological problem with adding new legislation such as this bill, it is clear that many people in our communities are blighted by the misuse of fireworks, and their use in antisocial behaviour, which is intensified and concentrated in geographic pockets. That is the issue that is not being clearly addressed. With the great range of powers that are already available to the police and prosecutors, people are rightly asking why that is not happening. I rightly ask why the Government cannot agree to conduct such an exercise. I look forward to hearing members' feedback on that issue, which the committee's stage 1 report flagged as a point of huge concern.

I move amendment 59.

Pauline McNeill: I am sympathetic to what Jamie Greene has outlined with regard to the need to understand the existing legislation and how it operates. I note the figures that he provided. However, I do not think that the amendment addresses an issue that concerns me—perhaps Jamie Greene could answer this point—namely that there seems to be a lack of confidence in the criminal justice system about using the existing legislation. To me, the lack of convictions indicates that either the police or the Crown are not using the legislation. I am drawing a distinction between the question whether the legislation is comprehensive enough and the question whether our criminal justice authorities are using the legislation.

I am sympathetic to the arguments for the amendment, but I would like Jamie Greene to address how it would deal with an issue that the committee considered in its report, which is what seems to be a lack of data on whether the Crown is actually using the legislation to prosecute people. My biggest concern about the bill is whether, even if we pass it, we will see the Crown Office and the police service using the legislation

to prosecute people who are breaking the law. Comments on that would be helpful.

Russell Findlay (West Scotland) (Con): Proposed subsection (3)(g) in Jamie Greene's amendment 59 names the Animal Health and Welfare (Scotland) Act 2006. One of the single biggest issues that we have all heard about is that of fireworks causing distress to animals, whether domestic pets or agricultural animals.

I have a useful recent, real-world example that backs up Jamie Greene's point. It relates to a farmer who came to one of my surgeries. He had had problems with a local hotel setting off fireworks and causing his cattle severe distress. He had lost calves to the trauma and some of the animals had escaped on to roads and so on. I say that to show the real cost to individuals of the misuse of fireworks.

He wanted to know whether there was existing legislation that made knowingly causing distress to animals illegal, which led to our coming across a public warning issued by the Scottish Society for the Prevention of Cruelty to Animals one year ago on fireworks night. It cited the Animal Health and Welfare (Scotland) Act 2006 and stated that it is an offence if a person causes any "unnecessary suffering" to captive or domestic animals and

"the person knew, or ought reasonably to have known"

that it would do that. That seemed pretty clear.

I then sought advice from the Scottish Parliament information centre on two elements: one, whether that interpretation was indeed correct and, two, whether there had been any such prosecutions over the past five years and, if so, how many. Eventually, the Scottish Government provided SPICe with information and, long story short, to the best of the Government's knowledge it seems that no fireworks-related prosecutions were brought under the relevant section of the 2006 act.

Furthermore, the Government went on to say that it would be an offence if an animal was "intentionally" harmed by fireworks. The addition of the word "intentionally" seems slightly less certain than, and perhaps even at odds with, the SSPCA's position on "knowingly" causing harm.

In the meantime, the farmer reached out to the National Farmers Union of Scotland, which told him that, as far as it was concerned, the SSPCA's interpretation is correct and that knowingly causing distress is an offence.

The point that I am trying to make is that it took a great deal of time and effort from an individual, me and SPICe to establish that there is an act that appears to do something helpful in relation to a fundamental problem that this bill seeks to address, but that does not appear to be being

used. To go back to Pauline McNeill's point, if we pass legislation that ends up going much the same way and not being utilised by the police and the Crown, it is at risk of simply becoming legal clutter, for want of a better phrase.

Jamie Greene said that prosecution rates in relation to the number of recorded incidents is "pitiful" and I agree. In addition to that, the frustration that I as a new member have had on this committee is that even just getting that data from the relevant public bodies has been extremely difficult. I use the 2006 act as an example, but I assume that much the same could be said about all those other bits of legislation. I would be very interested in the minister's response to all those points.

Katy Clark: I echo the points that have been made in all the contributions so far, including the concern about the lack of prosecutions under existing legislation and, indeed, the further concern that that may mean that there would not be effective use of this legislation if it were passed, although it would result in law-abiding citizens having to go to a great deal of extra trouble and expense to adhere to the licensing system.

I do not envisage that the amendment would delay implementation of the bill. It is about providing the whole country and, in particular, the Parliament and the committee with information that should already have been shared. We need to understand why there has been a failure to investigate and prosecute under existing legislation.

In the chamber, the minister referred to reasons why it might be difficult to prosecute under existing legislation. I got the impression that those might be technical difficulties to do with preparing cases and meeting the evidence standard. I am not clear about that and it would be useful if the minister or the Government could provide information about why there may be difficulties. With other types of case—for example, rape cases—we would have looked in detail at that issue to understand why prosecutions are taken or not taken and why the evidential base might or might not exist.

It would be useful to understand why the Crown Office has not taken prosecutions. Is it because resources or priority have not been given to such cases or are there other reasons? That is exactly what would be highlighted in a review, so I do not envisage that the amendment would delay the bill's implementation. However, we need that information and putting a review into the bill is an effective way to ensure that it is built into the Parliament's and the Government's work. For that reason, I support Jamie Greene's proposals.

Fulton MacGregor (Coatbridge and Chryston) (SNP): I have some sympathy with

Jamie Greene's amendment because he consistently raised the issue, as did Katy Clark, throughout the stage 1 evidence taking and in the stage 1 debate. However, a requirement for review is not needed in the bill. Katy Clark assures us that it would not delay the bill's implementation. The minister might have different views on that. Any risk of delay is simply not worth it, because the committee has invested a lot in an already truncated timescale, which has been widely debated.

We are talking about there being a possibility that current legislation is not being used effectively. The argument could be made that we need new legislation so that the powers will be used. The new legislation would be in the public eye and in prosecutors' minds to use. We all want effective legislation.

Perhaps the minister will offer that a review like the one required by the amendment could be carried out anyway. Katy Clark touched on that. The Government could do that and it does not need to be in the bill. Therefore, I am not minded to support the amendment.

Rona Mackay (Strathkelvin and Bearsden) (SNP): I appreciate many of the points that have been made, but I fear that we are going down a rabbit hole in talking about why existing legislation is not being used and prejudging whether the bill will be used. It is new legislation. The police and the courts are in favour of it. There is absolutely no reason for a review to be in the bill because the bill would be a fresh start and has the support of the courts and police. It is not necessary to put a review in the bill.

Ash Regan: My ministerial colleagues and I are always prepared to keep the law under review. Indeed, that willingness to review the law led us to introduce the bill.

The bill reflects a period of significant consultation and engagement with the public and stakeholders, alongside careful consideration of the evidence available, a key component of which was examining the existing legislation. The conclusions of the firework review group and the misuse of pyrotechnics stakeholder discussions identified gaps and a need for primary legislation.

10:00

Just to be clear, the firework review group reviewed the existing legislation, and the bill that you have in front of you is based on its programme of work and its evidence gathering. Further, amendment 59 would require a review of gaps in existing legislation or unnecessary legislation, not enforcement. Therefore, I consider that further review before commencement is not necessary and that, in fact, by delaying the commencement

of these necessary provisions, the amendment would do a disservice to those stakeholders and members of the general public who have made their views on the need for legislative change clear. I ask Mr Greene not to press amendment 59, and, should he do so, I ask the committee not to support it.

The Convener: I call Jamie Greene to wind up and indicate whether he will press or withdraw the amendment.

Jamie Greene: I will try to address some of the comments and questions from members, and I thank everyone for the respectful tone in which the feedback has been given.

Pauline McNeill raised concerns about a lack of confidence in the legislation as it stands. I am not pretending for a moment that my amendment will fix that issue. In the short time that we had available to draft the amendment, we thought about how we would word it and what would be required of the Government. As the minister rightly pointed out, the amendment does not say that the current legislation needs to be enforced. That is because we work on the presumption that legislation is enforced and should be enforced, and that legislation should not have to say that that will be the case. Within the confines of the bill, we have tried to set out what Government could do.

There is a lack of data—we know that. The data that we have is concerning enough. For example, since 2016, only 136 charges have been made in relation to fireworks offences. That is not a lot. The minister talks about the amendment doing a disservice to the public, but it is a disservice to the public that it is blindingly obvious to everyone that existing legislation is not being used to its full extent. The question why that is, is another matter, but unless we accept that it is not being used to its full extent, we will not be able to fix that problem.

I am not saying that we should not add new legislation to the picture. We voted in favour of the bill at stage 1. What I am saying—this is in response to Fulton MacGregor's point—is that I am afraid that, if the requirement for the Government to conduct a review is not in the bill, it will not happen.

Listening to what the minister has just said, it is quite clear that there will not be a review. If she had asked us not to include the requirement in the bill but said that the Government would undertake such an activity, I would be minded not to press the amendment and to trust the Government on that. However, that is not what we are hearing. Instead, we hear, "We already did that, and we don't agree that there is a problem." However, I am afraid that there is a problem. The committee believes that there is a problem. That is set out in

recommendations 3, 4 and 8 in our stage 1 report, the conclusion of which says:

"The Committee notes that there were only 136 charges over 5 years of which 16 resulted in a summary conviction according to figures provided to us from COPFS".

Again, I note that we had real issues in getting data on this issue; everything was very last minute. That raises the issue of the enforcement of the current law.

At paragraph 341, the report quotes a witness questioning whether we were prosecuting

"to the full extent of the law".

Further, at paragraph 338, the committee says:

"Concern was expressed about the current level of prosecutions to date for fireworks offences, and whether sufficient action is being taken by the police service and the Crown Office to identify and prosecute offenders."

Nothing that I have heard so far in the Government's response will give anyone comfort that that issue has been acknowledged, let alone dealt with.

Nowhere do I say that we need to stop adding legislation. Indeed, proposed subsection (2) in the amendment says:

"This section does not apply to section 21 of this Act."

As members will know, section 21 relates to proxy purchasing and the supply of fireworks to minors, and no one will want to stop those provisions going ahead as quickly as possible. In fact, the amendment exempts that very section; after all, the reason why we are rushing through the bill is to fix a loophole that has been identified. We all want it to be fixed, and we will let that happen.

I also dispute the argument that the amendment will delay the introduction of the legislation. Again, this is a stage 2 amendment; I would be happy to reword it if the Government wanted a shorter timescale for a review. Indeed, I think that the minister and her team of civil servants could conduct such a review quite quickly. The list of acts to be reviewed will come as no surprise to anyone in the justice sector, because they all cover offences related to the use and misuse of fireworks and their illegal sale and purchase.

Fulton MacGregor: Jamie Greene makes a point about the number of prosecutions. Who are we to say what a high number would be? As far as the amendment is concerned, what number would he have been satisfied with—500, 1,000 or 2,000? Would that still be too low? We do not really know.

Particularly in this committee, what I come back to is that, when we legislate, we cannot simply look at the number of prosecutions as the only factor. Nor should that be the only factor in the committee agreeing the principles of the bill—which, as the member rightly said, we agreed at

stage 1—and whether to introduce new legislation. Part of the role of legislation is to act as a deterrent; it is not necessarily about ensuring criminal prosecutions, which, as I think we will also agree, can harm individuals, too. I wanted to make that point.

Jamie Greene: I thank the member for doing so. I do not disagree with his premise, but what is clear from feedback that we have taken directly from communities that have been most blighted by the misuse of fireworks is the lack of correlation between what they are reporting and what they are seeing at the other end. It is that inaction that is causing most frustration. It is hard to say whether new legislation will fix that or simply add to the legislative environment and landscape—I hope not. I am not saying that we should not add further legislation in the way that the Government is seeking—all that I am asking for is a review of the current landscape, because we do not have all the data available to us. It would be nice to know the correlation between the recording of such incidents and where those cases go in the justice system and to find out why they are not proceeding.

Last year, for example, there were 974 fireworks-related complaints to the police—in other words, nearly 1,000. However, only 29 charges were brought, and there were zero convictions. Pauline McNeill talked about public confidence in the system. How can the public have confidence in a system in which 1,000 offences directly related to fireworks are reported and nobody—nobody—is successfully prosecuted? How will this bill change that situation?

All that I am asking is for the Government to take a step back and look at whether the existing laws are being used. I cannot for the life of me work out why the Government, with all the resources available to it, would not want to do so.

The Convener: Are you pressing amendment 59, then, Mr Greene?

Jamie Greene: I am.

The Convener: The question is, that amendment 59 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicol, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. There is an equality of votes. Therefore, as convener, I shall use my casting vote to vote against the amendment.

Amendment 59 disagreed to.

Section 3 agreed to.

Section 4—Requirement to have fireworks licence

The Convener: Amendment 60, in the name of Jamie Greene, is grouped with amendments 61 and 46.

Jamie Greene: This small group contains two of my amendments and amendment 46 in the name of Katy Clark, who will speak to that one.

Amendment 60 seeks to clarify who will be exempt from holding a licence. It relates to the main statement under section 4(1) of the bill that it will be

“an offence for a person ... to purchase, acquire, possess or use a firework ... without having a fireworks licence”,

which is the very essence of the Government’s proposal.

The term “without reasonable excuse” opens up a bit of a legal minefield of excuse making and lack of clarity. In fact, that wording is a defence solicitor’s dream. It is too vague, and my approach is to create clear blue water between those who must hold a licence and those who are explicitly exempt.

Exemptions are detailed in schedule 1 to the bill. I appreciate that “without reasonable excuse” is a commonly used legal term, but in the spirit of being crystal clear in the bill about who is and who is not required to hold a licence, I believe that reference to the exemption schedule—which could also be amended—is a better way of making clear who does not require a licence. If the Government can convince me otherwise, I am happy to listen to what the minister has to say.

Amendment 61 says that a person who holds a licence must present it at the point of purchase of fireworks. Specifically, it says that a person who holds a fireworks licence must be present at the point of purchase in all instances—both in person and online—irrespective of the location of the supplier.

I will speak about why the amendment is worded in that way; I apologise if it is not worded competently, but that is down to the timescale for drafting. The amendment seeks to shift the onus of responsibility for producing a licence to the licence holder. It means that at the point of purchase, the licence holder must present their licence to obtain fireworks. In the event of an in-person purchase in a retail store, that would be a

physical process, and when making an online purchase, the licence holder would have to provide evidence that they hold a licence.

As the bill is currently drafted, I believe that there is a loophole that means that online retailers will not have to check for a licence. In fact, there may be a debate to be had about whether the Scottish Government or the Parliament can legislate to mandate retailers to check for the possession of such a licence—more so if that retailer is not based in Scotland or the United Kingdom.

Amendment 61 is short, but effective, given that shifting the onus to the purchaser is the only way to competently make a purchase. However, it does not address the wider issue of how on earth online firework sellers will verify that a Scotland-based customer or resident holds a licence, or whether they have had one that has subsequently been revoked. We struggled to draft an amendment that did that. Any online retailer could feasibly sell to any address registered in the UK after the bill passes, but it is unclear how the legislation would be dealt with by retailers.

If the Government considers that there is a better solution to this problem, I would be keen to hear the minister's thoughts. If she is not minded to support my amendment, she must still outline why the bill contains no requirement to present a licence—physically or digitally—at the point of purchase, and how on earth the online sale of fireworks by suppliers outside Scotland or the UK when selling to Scottish consumers will be policed. That is not addressed in the bill and those questions remain unanswered.

I do not think that the issue can be kicked into the long grass of secondary legislation, because it is a key component in ensuring that we limit any opportunity for a black market, which is a very real risk—as so many of us have highlighted. Amendment 61 is meant to address that issue. If there is a better way to do that, I will be happy to withdraw my amendment and work with the Government to bring it back at stage 3.

10:15

I am keen to hear Ms Clark speak to amendment 46, which is slight in nature—it is a four-word amendment—but would have a big effect. It is quite unclear what she seeks to achieve with the amendment and, on a technical level, how the rest of the bill would be affected if it was agreed to. I have some concerns about the brevity of Ms Clark's amendment and the nature of what it seeks to do. I will let her speak to that.

I move amendment 60.

Katy Clark: I will start by addressing the issue of the brevity of amendment 46. I discussed the matter with the clerks: if amendment 46 is agreed to, it is likely that a substantial number of consequential amendments will be required. It was felt that it was better to put the principle before the committee today, and to deal with any consequential amendments at a later stage in the bill process. I hope that that explains the brevity of the amendment.

The effect of amendment 46 would be to leave out section 4 of the bill. The bill would still have firework control zones, restrictions on the days on which fireworks could be purchased and used, and new criminal offences relating to the prohibition of the supply of fireworks to children, as well as all the other provisions of the bill. The effect of my amendment would be such that, although there would be a new framework, the licensing scheme would be withdrawn.

I have no objection to a licensing scheme in principle. However, I do not believe that the scrutiny process has been sufficient, given the lack of detail in the bill and the risk of creating a black market, which the committee has heard about. Therefore, I believe that the Government should come back with primary legislation for a licensing scheme that could go through a proper process of scrutiny and, indeed, a consultation process. That would enable the committee to ensure that any proposed scheme was robust and would address the various concerns that the committee has raised.

We do not have the detail of the scheme, so we do not know exactly what the eventual proposals will look like, but I believe that the provisions of the scheme currently in the bill are such that it is likely that law-abiding citizens will inadvertently fall foul of the law, while people who use fireworks in an antisocial manner, which is the problem that we are trying to address, will simply not apply for a licence but will instead find other routes to acquire fireworks.

The proposal that I am making to the committee is that we take out the licensing scheme provisions, because of all the problems that the committee has discussed, and that the Government, if it feels that a licensing scheme is required, should come back with proposals that would enable there to be a proper scrutiny process. I would want the matter to be put to a vote.

On Jamie Greene's amendment 60, although I have some sympathy with what he said, I have concerns about what it proposes. I will listen carefully to the debate. There are scenarios in which all of us would probably accept that it might be legitimate for someone to have a firework or a pyrotechnic article that falls within the scope of the

bill, but my concern is that, if we were to take out the “reasonable excuse” defence and have a prescriptive list, that would be a criminal offence under the bill. It is a technical point, but the removal of the “reasonable excuse” defence would take away the courts’ discretion to look at the facts and the circumstances of every case. I have concerns about having a prescriptive list but, as I said, I will listen to the debate.

Pauline McNeill: I will start with Jamie Greene’s amendment 61, which I think is a necessary inclusion and gives rise to a necessary debate. I agree that, irrespective of the location of the supplier, we need to ensure that the bill covers licences that are to be physically presented in a shop as well as licences that are to be presented online. I think that the committee agrees that it would like that to happen. We cannot make the supplier ask for the licence, so there would be a difficulty with necessitating that in law. Maybe Jamie Greene will come back on that point. However, I think that his amendment is necessary in order to make the position clear in the bill.

Jamie Greene: It is probably easier to deal with that point now, as I am likely to forget to do so in my summing up. You are absolutely right: it is quite apparent that it is nigh on impossible to mandate retailers in the statute in the way that we might need to do in order to ensure that someone holds a licence. That is why I have worded my amendment in the way that I have. The onus is on the licence holder to present their licence “at point of purchase”, because that is most definitely within the competence of both the Parliament and the bill.

Pauline McNeill: Thank you; that is helpful.

Amendment 46, in the name of Katy Clark, is a substantial amendment and creates a substantial debate. As I have said, I am concerned about whether the public will understand all the complexities that are involved in remaining within the law, as there are so many different offences.

I am concerned about the lack of detail around the nature of the licensing scheme. I welcome the helpful letter that the minister sent to the committee, which runs through how it will work. It is important to point out that, by supporting amendment 46, we would simply be saying that the Government should come back with firm proposals about how the scheme would look and not necessarily that the scheme should be taken out of the bill altogether. As Katy Clark said, it would still leave firework control zones, and it would still be against the law to set off fireworks within the 57 days specified in the bill.

My first concern, which I expressed in the debate on the previous group, is whether the legislation will be used by prosecutors. My second

concern is whether it will be well understood. As Katy Clark said, aspects of the offences and the current law deal with the misuse of fireworks, whereas the aim of the licensing scheme is, as the Government says, to create a culture in which people understand that the use of fireworks needs to be regulated.

I have lodged an amendment—to be debated down the line—on the affordability of the licence, which is an issue that the committee raised. It would have made sense for the Government to have given the committee specific proposals on the scheme for our consideration.

I am not convinced that the Government’s assessment of the black market issue is necessarily right. I have to confess that I was concerned when I heard the industry’s presentation to the committee, which is still in my mind. If we get this wrong, I would hate it if ordinary people, who were trying to conform to the provisions on the licensing scheme and the days on which they can buy and set off fireworks, were penalised when they find that it is easier to get fireworks elsewhere. There is no doubt in my mind—and as the slide that we have seen tells us—that there will be an issue with people exploiting the situation if it is difficult to lawfully set off fireworks. For that reason, I am sympathetic to amendments 46 and 61.

Lastly, I tend to agree with Katy Clark on amendment 60. I am still not clear why we would need to use the language

“unless explicitly exempt under schedule 1”.

My only objection is that “without reasonable excuse” is the term that is normally used. Therefore, there is a question mark over amendment 60.

Fulton MacGregor: I am generally supportive of amendments 60 and 61, in the name of Jamie Greene; at least, I am supportive of the principle behind them, which is an attempt to tighten up the use of licences, which is a big part of the bill.

However, as Pauline McNeill and Katy Clark have said, and as Jamie Greene has reflected on, the amendments might not be the finished article. I am keen to hear whether the minister has any concerns and if so, what they are and whether the possibility of overcriminalisation is one of them. If people are trying to do the right thing, criminalising them would not be the right way to go. However, Jamie Greene has offered to work with the minister with regard to what he is trying to achieve with the amendments, and perhaps we could take that forward at stage 3. That is a sensible approach, because we want to see the licensing scheme work.

I think that Jamie Greene's fear—which the minister might be able to alleviate when she speaks—is that, if there is a way not to present a licence, then most people will not present one and licensing will not really be enforced. We would like to see it the other way about: if a licence is needed, you need to present one, unless you can demonstrate why you do not have to do so. I will wait to hear what the minister says about that.

I am not entirely clear how amendment 46 would work. I appreciate Katy Clark's explanation of it, but it would be good to hear what the minister thinks about that, too.

Rona Mackay: On amendment 61, the onus is already on the retailer to ask for proof of age for alcohol and cigarettes, so the amendment might be pre-empting something that is not a problem.

On Katy Clark's amendment 46, licensing is an integral part of the bill and dovetails with other measures, so if we agree to amendment 46—regardless of what Pauline McNeill was saying about how it could come back at stage 3—licensing would be gone from the bill. If licensing were not there, I think that that would negate the purpose of the bill, which is to make people realise that they have to be responsible when they are buying and setting off fireworks. If there were no licensing scheme, that would defeat the purpose of the bill.

I agree that the detail is very important. We would have to scrutinise the licensing scheme when it comes around in the future, but it is far too sweeping to say that we should just take it out of the bill now.

Russell Findlay: On Jamie Greene's amendment 61, I think that the need for licence holders to declare that they have a licence when making a purchase is basic common sense. I note Rona Mackay's point about high street retailers having a responsibility to check ages in other circumstances, but that approach does not take into account the wild west of online sales. There are incredible grey areas and multiple jurisdictions outwith the reach of the Parliament. To take an example, there is the issue of fraud, much of which occurs online. It is just not subject to meaningful investigation by the authorities in Scotland, because they just do not have the resources to do it. The notion that anyone would be checking whether some random seller in a dark corner of the internet had sought a licence before selling fireworks to someone in Scotland is for the birds. Therefore, it is very important that we bring in such a declaration. In fact, I think that the Government would probably welcome it. I am interested to hear the minister's response to that.

Ash Regan: Section 4 of the bill sets out, among other things, that

"It is an offence for a person, without reasonable excuse, to purchase, acquire, possess or use a firework ... without ... a fireworks licence."

Regarding amendment 60, I understand that Mr Greene is seeking to strengthen the language in relation to those offences to ensure that the offences can be effectively enforced and to address any concerns around that. However, I have issues with the amendment. Section 4 has been carefully drafted with the understanding that people who otherwise would not be exempt might make a genuine mistake—I think that Katy Clark was alluding to that point—or be in a situation that is outwith their control in which they are, for example, inadvertently in possession of a firework.

A similar provision for a defence of reasonable excuse operates in relation to offences involving the possession of corrosive substances under the Offensive Weapons Act 2019.

10:30

Jamie Greene: If it is an offence for someone to purchase, possess or use fireworks without a licence unless they are explicitly exempt under the list in schedule 1, in what scenario does the minister foresee someone justifiably purchasing, possessing or using fireworks without a licence?

Ash Regan: There are lots of examples, so I do not want members to read too much into the particular one that I will use. I use it for illustrative purposes.

Let us say that a parent sees their child with a firework, does not know where they got it from—they certainly did not give it to the child—takes it off the child and then takes it to the police station or goes to destroy it. Under section 4 as drafted, they would not commit an offence because they would have a reasonable excuse for having that firework in their possession without having a licence.

We cannot foresee what situations might arise. I have no doubt that they will be infrequent. However, section 4 as drafted enables people to rely on the reasonable excuse defence to avoid committing an offence and the prosecution and conviction that could follow. I do not wish, and I am sure that the committee does not wish, to criminalise people who have done nothing wrong and find themselves in highly unusual circumstances. The entire section needs to be read to give the context. Section 4(4) already makes it clear that the section is subject to the exemptions that are listed in schedule 1. Therefore, amendment 60 is not necessary.

We also heard from Mr Greene regarding amendment 61, which would require a fireworks licence to be presented at the point of purchase, either online or in person.

There is already a requirement upon suppliers to take reasonable steps to establish at the point of purchase that the person they are supplying has a licence. Rona Mackay made that point. Crucially, that requirement extends to other parts of the supply process, such as a courier who makes a delivery following an online purchase. Other points in that supply chain—for instance, a delivery driver—will have the duty to check the licence. That happens with other age-restricted products as well.

Jamie Greene: To be clear about what the bill seeks to do, where does the ultimate onus and responsibility lie for checking whether someone holds a licence? In a physical scenario, is it at the point of purchase or delivery? If it is an online purchase, does it lie with the person who processes the order at the other end, in the back office?

I do not know what we can and cannot legislate to do in that regard, but, under the bill as drafted, it remains unclear where the ultimate responsibility lies and whose job it is, in the law's eyes, to check whether the purchaser holds a licence or is exempt. That is the reason for amendment 61.

Ash Regan: It is both. There is a requirement on suppliers to take reasonable steps to establish whether the purchaser has a licence or is exempt. There is also a duty on the person purchasing to have a licence in order to comply with the law. That will also apply to delivery drivers, which covers the point that Russell Findlay and others made about online sales.

Russell Findlay: The example that you cite of couriers now being responsible for checking that in the supply chain does not negate the need for amendment 61 but cements it by putting the onus on the buyer. Although I have no doubt that couriers are, in the main, legitimate and responsible, the issue is sellers who might not be in the jurisdiction of Scotland or elsewhere in the UK. There is no accounting for the methods that they might deploy in order to send fireworks to people in Scotland. Moving and agreeing to amendment 61 would put the legal onus on the purchaser. That seems like common sense, but I am curious to hear your views on that.

Ash Regan: The member is partly right, in that we cannot regulate behaviour outside of Scotland. That is why we used the term “supply” in drafting the legislation, so that it covers all parts of the process that are not at the point of purchase. Only specialist couriers can deliver fireworks, and the fireworks will be marked as explosives so that they cannot be delivered by normal couriers.

Russell Findlay: That makes sense, but that provision is entirely dependent on the people selling fireworks being honest and declaring what

they are sending, which cannot be guaranteed. Therefore, I go back to the point that amendment 61 would put the onus on the buyer.

Ash Regan: As I have laid out, there are requirements on the seller and the purchaser, and requirements on people in the supply chain. That will work in a similar way to the delivery of age-restricted products, in which the person who is delivering the products must satisfy themselves that the recipient is of a permitted age to receive the delivery. I am sure that we have all seen or noticed that, when things such as alcohol are delivered as part of our online shopping.

I believe that the issue is covered and that a specific provision that relates only to the point of sale is not only unnecessary but would cause confusion and lead to a misunderstanding or even complacency in the wider supply chain regarding licensing checks.

I do not know whether Russell Findlay has had an opportunity to read the letter that I sent to the committee, but I hope that the committee received it and was able to look at it yesterday. In the letter, I set out in detail the steps that are being taken to look at such things as illegal online sellers. There is quite a lot of detail in that response about the steps that the Government and its partners, such as trading standards, would take in order to address Russell Findlay's point.

We have heard from Ms Clark that section 4 should be omitted entirely. That would mean that no offence would be committed by a member of the public who did not have a licence when purchasing, using or possessing fireworks. The onus would be shifted entirely on to suppliers and the offence that would be committed by supplying fireworks to an unlicensed person. Removing section 4 would significantly weaken the licensing system and our ability to achieve the policy aim of ensuring that all firework users have completed training on the safe and lawful use of fireworks.

Focusing the consequences of not having a licence solely on suppliers would weaken further the policy aim of bringing about more responsible, appropriate and safe use of fireworks by members of the public. Making it a criminal offence not to have a licence is a fundamental part of driving the societal change in that area and ensuring that there is a high degree of compliance with the requirement to undertake the training.

The licensing scheme was based on a significant amount of consultation and evidence gathering. What Katy Clark is suggesting in amendment 46 is very disproportionate, because it would totally remove the licensing scheme, which received significant public and stakeholder support.

Pauline McNeill: If you had not gone for the licensing scheme, would it be true to say that you could still create an offence of setting off fireworks outwith the 37 days? I totally accept that the whole point of a licensing scheme is that people who do not have a licence will be prosecuted. However, under the bill, you could also have an offence of letting a firework off outside the 37 days. It is an offence to purchase a firework outwith the 37 days—that is the Government’s position—but you could still prosecute people for using fireworks outwith the 37 days.

I was a bit unsure about that in the bill, because I was not sure that everyone would understand it. I know that we will come later to the debate about what information will be given to the public. Although there is a rationale behind the 37 days on which fireworks can be sold, an ordinary member of the public needs to know about that.

Ash Regan: Yes. Obviously, there are a number of ways in which you could approach that. As we know, the firework review group came up with a set of recommendations. The licensing scheme is a key part of the bill, but it is a key part of a wider set of provisions. As Pauline McNeill mentioned, there are other provisions in the bill to deal with certain types of behaviour.

The idea behind the licensing scheme is to make the purchase of fireworks a planned event and to move away from the situation where people can buy fireworks spontaneously without having to understand how to use them, where to use them, how to use them safely and so on. If the bill is passed and people have to apply for a licence, they will have to learn about the safe and lawful use of fireworks before they are able to use them. Therefore, I consider the licensing scheme to be a key part of the set of provisions.

Katy Clark: I am very interested in what you are saying, minister, which seems to be that one of the main purposes of the licensing scheme is to require people to undertake training. Of course, there are other ways in which that could be done. It could be a legal requirement that people have to undertake training, whether that was face to face or online. I would be sympathetic to the idea that that should be done face to face, because I think that that would be a more robust form of training, although I understand that it is probably more likely to be done online. However, that is a discussion that we might have later or in future.

We know that very few people are convicted of fireworks offences—we have heard evidence on that—and, as the bill stands, it is only those with fireworks convictions who would have to declare their convictions for consideration for a licence. Therefore, given that very few people have fireworks convictions, I presume that most people will get the licence if they pay the money.

Therefore, the main issues are the money and, as you say, the training scheme. However, the training does not need to be done in that form, does it? It does not need to be attached to a licence with your proposed provisions, including the licence fee.

We will come to the details of who is covered by the licence later, but, for example, it is not clear whether community groups and a range of other organisations would be covered by the scheme. Therefore, are you saying that it is the training that you believe to be the fundamental issue with regard to the licence?

Ash Regan: No. Training is just a part of the whole policy intent, as I think I have outlined in my responses. I take the member’s point, but if you said that you would just like people to be trained before they use a firework, without a licence and mandatory training, you would be reducing it to some sort of voluntary system—[*Interruption.*] Is that what you were implying?

Katy Clark: No, not necessarily. The training could be mandatory and there could be provision in the bill for that.

Ash Regan: Within the powers that are available to Parliament, that is the method that was designed in order to effect the policy intention, which is to make people use fireworks in a safe and lawful way and to ensure that people cannot spontaneously purchase fireworks—they could not just run into the shops, buy fireworks and use them in ways that most of us would consider to be, at least in part, antisocial. I hope that that answers Katy Clark’s question.

For those reasons, I do not support amendments 46, 60 or 61, and I ask the committee not to support them.

Jamie Greene: I thank the minister and members for the debate. I will clarify a few points.

I probably share other members’ concerns and reservations about the nature of what amendment 46 seeks to achieve. I have problems with how the licensing scheme is proposed, but I do not have a problem with a licensing scheme per se. Therefore, I would be unable to support amendment 46.

Katy Clark: The idea is that the Government would have to come back with specific proposals in primary legislation, given all the concerns. It is not a principled objection to the licensing scheme.

Jamie Greene: Sure. However, the manifestation of the principle is the removal of the scheme entirely by the removal of section 4, and its removal would create issues. I suspect that, with the benefit of time, the member would have been able to formulate something else.

10:45

I have another couple of amendments of a similar ilk coming up, because I have reservations about the proposals and I want the Government to revisit them. I have proposed how it should do that and, more important, I have given timescales.

I hope that the member will reflect on amendment 90, which is on post-legislative scrutiny—it is unclear whether that will be considered today or next week. It provides for a review of the licensing scheme and the effect that it is having on the black market and illegal purchasing, for example. Other amendments are coming up, and I think that we will have a good debate about them. I hope that the member will be willing to support them in return for my lack of support for amendment 46.

I have heard the concerns about amendment 60. Valid concerns have been raised in the debate about the reasonable excuse, so I will not press that amendment.

However, I will move amendment 61, which is quite a simple one. There are still quite muddy waters in relation to what we can do through the bill to ensure that people present their licence. Rona Mackay is right to say that retailers already have to verify someone's age when certain products are sold. That is all well and good in a physical environment in Scotland. If someone buys fireworks from a Scottish retailer, I do not think that there is a problem. The legislation is clear about who is responsible for such sales. However, if someone buys fireworks from a UK retailer, it is slightly less clear where the jurisdiction lies. If the sale is from outside the UK, the position is even less clear, other than the courier being landed with the entire responsibility if someone makes a purchase. During the debate, I googled "Buy fireworks from the EU". There are dozens of websites that will happily sell fireworks to people in Scotland, and I am afraid that nothing in the bill will legislate for that.

In my view, the simple solution is to put the onus on the purchaser to present their licence to the retailer in whichever manner is possible. These days, that should not be too difficult to achieve from a technical point of view. Much of that will depend on the technical solution that the Government procures and introduces to administer the licensing scheme, but it should not be beyond the wit of man to allow for a licence to be presented digitally or physically at the point of purchase. That would put the onus back on the licence holder, because they would need to have their licence with them if they were buying fireworks, in the same way that people need their age identification if they want to buy alcohol or cigarettes. We know that we simply cannot have wholesale legislation in relation to enforcement for

online or physical retailers, so we would put the onus back on the purchaser. I struggle to see why that would be an issue, so I will move amendment 61.

Amendment 60, by agreement, withdrawn.

Amendment 61 moved—[Jamie Greene].

The Convener: The question is, that amendment 61 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0.

There is an equality of votes. Therefore, as convener, I shall use my casting vote to vote against the amendment.

Amendment 61 disagreed to.

The Convener: I propose that we take a comfort break of about 10 minutes at the end of the debate on the next group.

Amendment 62, in the name of Russell Findlay, is grouped with amendments 63 to 66, 85 to 88, 91, 92, 94, 95, 99, 100, 110, 111, 118, 119 and 124 to 126.

Russell Findlay: The number of amendments in the group might suggest that a lot of talking is required, but that belies the fact that most of them would pretty much do the same thing.

I will start with amendment 62, which relates to the maximum prison sentence for illegally buying, acquiring or possessing fireworks, and amendment 63, which relates to the maximum fine. In much the same vein, amendments 64 and 65 relate to the particular offence of doing so without a licence; amendments 85 and 86 relate to the offence of making a false statement to get a licence; amendments 87 and 88 relate to the offence of producing a false licence or other document; amendments 91 and 92 relate to the offence of buying fireworks for, or giving them to, under-18s; amendments 94 and 95 relate to the offence of supplying fireworks outwith the proposed 37 designated dates; amendments 99 and 100 relate to the offence of using fireworks outwith the proposed 57 designated dates;

amendments 110 and 111 relate to the offence of using fireworks in firework control zones in breach of the terms laid out; amendments 118 and 119 relate to the offence of possessing pyrotechnics after going to an event; and amendments 124 and 125 relate to the offence of giving false information to trading standards.

I will speak to amendment 126 later, as it is the only one in the group that is slightly different. In the other amendments that I have referred to, the first number relates to the maximum prison sentence for each offence and the second relates to the maximum fine. The bill states that the maximum prison sentence can be six months and the maximum fine can be £5,000 but, in my amendments, I seek to raise the maximum prison sentence to 12 months and the maximum fine to £10,000. I am not saying that the amendment sets out the correct sentence to be applied—we have no crystal ball that shows each and every case that will come before a sheriff down the line—but we think that it is very important for the judiciary to have the power of discretion on that matter. It seems unlikely that many of those offences will result in people being imprisoned for 12 months but, as we cannot foresee all the circumstances, it seems logical to give the judiciary that power.

Katy Clark: When the member was looking at that section of the bill, did he consider any other forms of disposal or options for the courts besides prison sentences and fines? After all, a range of other non-custodial disposals, such as community orders and probation, might be available. Has the member given any thought to that? What are his views on expanding the range of available disposals?

Russell Findlay: I have no doubt that the minister will put me right on this, but my understanding is that those disposals would be available under the bill as it stands. We will hear from the minister on that point.

On the specific proposal for sentences of potentially up to 12 months, I point out that, in 2019, the Government itself legislated for a presumption against short sentences. As a result, sheriffs are disinclined to sentence anyone to anything less than 12 months. That kind of makes a new bill that stipulates a maximum sentence of six months somewhat disingenuous and possibly redundant; it is certainly something that the public might not fully understand. Given the expectation on sheriffs not to imprison anyone for less than 12 months, even though they can do so, I think that changing the provision in the bill from six to 12 months would make a lot clearer to sheriffs the range of options available to them.

Pauline McNeill: Earlier, you said that your intention was to ensure that sheriffs could, if they thought the offence was serious enough, give a

12-month rather than a six-month sentence, and you have also highlighted the point about the presumption against short sentences. However, is it your intention—or, indeed, hope—that sheriffs will use that additional scope to give heavier sentences? I am sympathetic to your proposal, but it all depends on your response, because it would concern me if the intention was to have heavier sentences.

Russell Findlay: It is neither my place nor my intention to suggest how a sheriff might use that. Any disposal is entirely dependent on the circumstances before the sheriff. However, given the presumption against short sentences, putting a sentence of six months into new legislation seems slightly disingenuous.

My approach gives sheriffs options. There might be a case down the line that merits a greater sentence. We often hear sheriffs express concern that they cannot satisfactorily sentence an individual due to what is stated in a particular piece of legislation. It seems eminently sensible to future proof the legislation and give sheriffs a range of options.

It may be that members agree or disagree with some of the examples that I have read out, depending on the perceived seriousness or otherwise of each element of the offence.

On amendment 126, which is the only amendment in the group that would do something different, my understanding is that it would future proof the section in the event of something happening, such as Covid or any undue delays to prosecution. That means that, if there were significant delays brought about by circumstances that no one could foresee—something in the nature of Covid—the 12-month period would not begin, and the clock would start ticking after any relevant additional measures were brought into place.

I move amendment 62.

Jamie Greene: I will speak to amendment 66 first. Amendment 66 is a short amendment to section 5, page 3, line 14, which would leave out the word “is” and insert “may be” instead. It is the only amendment in my name in the group, but I will also speak to Russell Findlay’s amendment 62.

Amendment 66 relates to the supply of fireworks to an unlicensed person, which we debated earlier. That section of the bill could, in effect, criminalise retailers, online sellers, shopworkers and delivery drivers who sell fireworks to people without a licence. In itself, that is a controversial debate. However, it is still entirely unclear whether the liability lies with the individual at the point of purchase or with, for example, whoever is recorded on the receipt of the purchase, the owner

of the premises, the business or the website, the retailer, the executives or the trustees, and so on. Section 5(3) explicitly states that it is a defence to show that the person “took reasonable steps” to establish that the purchaser either had a licence or was exempt from having a licence.

To go back to our earlier debate about offering flexibility in the judiciary—I have conceded the need for that—I have proposed changing the wording to

“It may be a defence”,

to allow for the discretion, which we agreed to earlier this morning, for the police, the courts and the justice system to determine on a case-by-case basis whether the defence that has been provided is bona fide and robust. It cannot be a black and white matter, as it is a defence—that was the mistake that I made in my previous amendment.

On the wider point, notwithstanding amendment 66, unanswered questions remain regarding the practicality of who is committing an offence and under what circumstances if an unlicensed customer is able to successfully purchase a product. I ask the committee to reflect on that issue.

I agree with what has been said so far about the other amendments in the group relating to penalties. However, there is an additional point to be made about the message that is sent out if we increase the penalties. The option of an increased penalty at the disposal of the sheriff is not an automatic increase that means that all fines and sentences will go up, but is something that offers the sheriff a wider toolkit. That is important, because it will act as a deterrent to those whom we know engage in problematic behaviour; it reflects the strength of feeling that we have heard from communities that have suffered and which feel that the law is not necessarily a deterrent as it stands; and it will send a strong message that we will take the matter seriously.

11:00

For technical reasons to do with the presumption against shorter sentences, everyone knows that—irrespective of one’s view on the matter—a six-month sentence is not a sentence served. That is a fact. Increasing the maximum sentence to 12 months means that there is real potential that the most serious offenders, in committing the most serious offences, would run the risk of going to prison. That potential does not currently exist.

I appreciate that we would be making a jump across water, but that is important, because it would give sheriffs a disposal that they do not currently have available to them. There would be a

meaningful chance that people could go to prison for the most serious of offences. I am not saying that they would or that our view is that they should—I am simply saying that it would give sheriffs that option. It is an important jump, which is why we would increase the maximum sentence to 12 months. I ask the Government and members to support the increase, or to explain why we should not do so.

Fulton MacGregor: When members take time to lodge amendments and work together as a team in committee, I always try to find some common ground, even if I do not intend to vote for those amendments. Nevertheless, I have to start with a caveat—almost an apology—that I completely disagree with the amendments in group 5.

I feel that the bill, which we have already taken through stage 1, already strikes the right balance in this respect. In my view—the minister has been clear on this—the aim of the bill is not to engage in unnecessary criminalisation, but to change the relationship with, and use of, fireworks in this country, which is a major problem for communities.

Russell Findlay and Jamie Greene talked about the need for the option of a custodial sentence, but I cannot think of an example that would merit such a sentence. Even the most serious instance that we could imagine, such as an assault on emergency workers, would already be covered by other laws that could be utilised by the prosecution service.

What we are talking about is the use of fireworks as we currently experience it in Scotland. I think that the bill already strikes a balance, and already puts power with the courts. The committee took evidence from one of the panels—I cannot remember which one—on the subject of disposals that would lead people, and young people in particular, to look at their behaviour. We know that some community groups are doing really good work in that area. I will not go through all the amendments in the group individually. I respect the work that Russell Findlay has put into bringing them together, because there is quite a lot in there, but I am absolutely not going to support them. I think that the bill already strikes a balance.

Ash Regan: I believe that the maximum penalties that are set out in the bill are proportionate to the offences in the bill. That is the key point. All the offences are subject to level 5 penalty caps. Those levels have not been arbitrarily chosen—they have been deliberately included following careful consideration, and they are based on the types of offences in the bill and the levels of penalty that are applicable in other fireworks legislation. That ensures that there is consistency, transparency and proportionality

across the bill and across the legislation on fireworks overall.

I have listened to the arguments from Mr Findlay and Mr Greene. Mr Greene raised an instance in which something very serious had happened involving fireworks. However, it is likely—Mr MacGregor made this point—that, where fireworks or pyrotechnics are used against emergency workers in a very serious offence, that would be taken forward through other legislation, or possibly through common-law offences such as assault or breach of the peace. Under both those offences, long custodial sentences up to and including life imprisonment can be handed down. I hope that that gives Mr Greene some comfort on that point.

Russell Findlay: To go back to your earlier point, what you said about consultation was interesting. Was consultation on the proposed sentences and disposals done with the Lord President, the Sheriffs Association and the Scottish Sentencing Council, for example?

Ash Regan: No. It was actually consideration, and it was to do with aligning the bill with other legislation that is similar.

We are not aware of any specific or compelling evidence that higher maximum penalties are necessary to deal with the offending behaviour that we are speaking about. Therefore, I believe that there is little justification for increasing the maximum available penalties, and that the penalties that are set out in the bill strike the right balance, are proportionate and give the courts the appropriate powers to deal with people who commit such offences.

Katy Clark raised the issue of other disposals. Of course, other disposals are available, at the discretion of the court, based on the circumstances of the case.

I ask Mr Findlay not to press amendment 62 and not to move his other amendments in the group. Failing that, I ask the committee to vote against them.

The Scottish Government's policy of having a presumption against short sentences has been debated, but it is important to keep in mind the fact that it is a presumption, not a ban. In any given case, the court can decide to impose a sentence of a short period of imprisonment, but only if no other method of dealing with the person is appropriate.

Jamie Greene: Can the minister elicit evidence on whether anyone has been sent to prison in the past five years, say, for a fireworks-related offence? To date, what is the maximum fine that any court has issued for such an offence?

Ash Regan: Can you give me a moment? I do not have that information in front of me, so I will have to look it up.

Jamie Greene: No problem. It is important information in the context of the amendments that we are debating.

Ash Regan: I think that that information is part of the data that we gave to the committee. From looking at it briefly now, it looks as though no custodial sentences have been imposed for existing fireworks offences. However, that does not mean that, if there was a more serious incident of the kind that I described earlier, a custodial sentence would not be imposed. Let us say, for example, that somebody had injured an emergency services worker. That would be proceeded against under a different piece of legislation. I hope that that makes sense.

Jamie Greene: Yes, it does. Thank you for that. I am sorry for putting you on the spot, but that information is very relevant.

Is the discussion about whether the maximum fine is £5,000, £10,000 or £5 trillion not slightly irrelevant if such levels are nowhere near being reached at the moment? The fact that the data on such matters is not available to the committee is problematic, but I am guessing that the maximum fines that have been issued are in the hundreds of pounds, not in the thousands or the tens of thousands.

Regardless of whether we seek to increase the current level of fines—we will vote on that shortly—as things stand, there is no pertinent deterrent in the system. Has the Government asked why the fines that have been issued have been so low? Are such fines truly serving as any form of deterrent to the misuse of fireworks?

Ash Regan: I think that we are going significantly off topic. The first few amendments in the set of amendments before us relate to use of fireworks without a licence and possession of fireworks without a licence. Those are the offences that we are discussing here. I am content that the penalties that are in the bill are proportionate, and I think that those that Mr Findlay has suggested are not proportionate for the offences in question. The penalties have been carefully considered as part of the development of the bill in order to align them with those for similar offences in other fireworks legislation.

I move on to amendment 66. For such offences, it is standard for a supplier to have as a defence that they took reasonable steps to establish that the person whom they supplied had a licence or was exempt. For example, versions of such provisions can be found in the UK Parliament's recent Offensive Weapons Act 2019 as it applies in Scotland in connection with age-restricted sales,

and in the Scottish Parliament's Licensing (Scotland) Act 2005 as it applies to age-restricted sales of alcohol.

The current defence allows for the court to make a judgment as to the facts of the sale. It means that, when a person is sold fireworks who should not have been, there is no offence if the retailer can show that they genuinely tried to follow the rules but nevertheless did not due to something that would not have been apparent to an ordinary supplier who was acting diligently. That could include, for example, a genuine mistake or clever deception on the part of the buyer.

Jamie Greene: Can I ask the minister a question on that?

Ash Regan: I will finish what I am saying and then I will come back to the member.

A defence of that nature provides a degree of comfort to retailers that they do not have to take extraordinary and impractical steps with regard to the sale of products that are subject to legal restrictions. It is for that reason that the standard approach was taken in the bill.

Mr Greene's amendment 66 would greatly reduce that comfort, and would mean that that defence would not be available, even if the supplier took reasonable steps to establish whether the person whom they were supplying had a licence or was otherwise exempt. I do not think that it is fair that a supplier should face criminal conviction or punishment in those circumstances. The likely consequence of the amendment would be a reluctance to sell fireworks, given the possibility of conviction despite taking reasonable steps to comply with the law. Where sales continued, the transaction might prove overly onerous and time consuming, and add to the cost of doing business for both the supplier and the professional businesses that were legitimately purchasing fireworks in circumstances in which they were exempt but having to go to extraordinary lengths to prove that.

I understand and sympathise with the intent to ensure that suppliers comply with the law. However, for the reasons that I have set out, I do not think that the amendment is appropriate.

I give way to Jamie Greene at this point.

Jamie Greene: Thank you, minister. I again refer to the potential of the legislation to drive people towards online purchases. What about those businesses that run websites? Examples include pyrofire.eu, bestpyroshop.eu, pyrobest.eu and so on. That list is not exhaustive; other retailers are available. What would be deemed a reasonable excuse from them? How would they show that they had taken all measures necessary to ensure that a Scottish consumer had purchased

and held a licence? How would they even know that there is legislation in Scotland that pertains to the sale and restriction of products to unlicensed people unless they are exempt? That is still unclear, despite all the answers that we have been given.

Ash Regan: In the scenario that the member has outlined, the delivery company would have the duty under the legislation.

I move on to amendment 126. I understand that Russell Findlay has lodged the amendment to provide clarity. However, I fear that, rather than clarifying any perceived issues, its addition could cause confusion.

The Criminal Procedure (Scotland) Act 1995 sets out that summary criminal proceedings for statutory offences must ordinarily be commenced within six months from the time when an offence is committed. However, the act already sets out that that section applies unless another piece of legislation fixes a different time limit, as is the case with the bill.

The 12-month time limit that is set out in the bill is deliberate—it ensures consistency with other fireworks legislation. Another piece of legislation can be made by the Scottish Parliament or, indeed, by the UK Parliament to alter the time limit. That is already clear from the powers of those Parliaments, and the clear wording to that effect, in the Criminal Procedure (Scotland) Act 1995. Therefore, I believe the amendment to be unnecessary and, ultimately, it could cause confusion.

I ask Mr Findlay not to press amendment 62.

The Convener: I call Russell Findlay to wind up, and to press or withdraw amendment 62.

11:15

Russell Findlay: There is a bit of ground to cover. I will not go over everything that I originally said about why I believe that this is the right thing to do, but I will begin by saying that I agree with Fulton MacGregor. It is not about seeking to criminalise people; we are here to try to reduce the misuse of fireworks, which is about educating people and seeking to encourage responsible behaviour. However, giving the courts the options is a very good and wise thing to do.

Going back to Jamie Greene's amendment 59—which is about the desire to ensure that existing legislation is being used properly—one of the arguments against it was that this new law will be the go-to, all-singing, all-dancing piece of legislation to deal with the issue of firework misuse. If so, it should be as powerful as it can possibly be. It is worth emphasising that including the additional higher sentence or fine options is

not to say that those will come to pass or be used disproportionately. I trust sheriffs to use their judgment.

The minister made the point about the ability to use other legislation in relation to, for example, 999 workers being attacked, and the ability to apply sentences up to life sentences. I think that Fulton MacGregor also made that point. That may be so; however, we have to look at the long list of offences that the disposals relate to. To take one example, amendments 91 and 92 relate to buying or giving fireworks to under-18s.

The minister referred to retailers possibly being deterred from selling on the basis of the threat of an increased sentence. However, that is slightly unlikely. It is also a curious point: one, because we are trying to discourage the sale of fireworks; and two, because we have had a lack of evidence from retailers about what their intent might be because of the act. I do not know whether using that as an argument against having effective sentencing therefore quite sits with the point that we are trying to make.

In relation to amendment 91, we are talking not about legitimate and responsible retailers, but about the white van man in Blackburn that we have heard about. We are talking about people of that nature, who have no regard for the law, whatever bit of legislation it is in. If such people supplied fireworks to children and subsequent serious damage was caused because of that, that would be one example of why it would be worth while to have that additional higher sentencing option.

If this bill is to be the go-to, gold-standard legislation, it must do one fundamental thing—which is the point that Jamie Greene made but that I omitted to make in my opening remarks—which is to act as a true deterrent. We are not seeking to criminalise people; we simply want to give the courts the options. What we propose in the amendments is therefore reasonable in the circumstances.

I will press everything other than amendment 126, which I am happy to withdraw on the basis of the minister's explanation, which has informed my understanding.

The Convener: We will come back to that.

The question is, that amendment 62 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

Abstentions

Clark, Katy (West Scotland) (Lab)
McNeill, Pauline (Glasgow) (Lab)

The Convener: The result of the division is: For 2, Against 4, Abstentions 2.

Amendment 62 disagreed to.

Russell Findlay: Sorry to interrupt, convener. I understand that I might have made a procedural mistake in pressing all the amendments at the same time.

The Convener: We understand—

Russell Findlay: My point is that there is no need to do so.

The Convener: We will come to that.

Russell Findlay: Thank you.

Amendments 63 and 46 not moved.

Section 4 agreed to.

Section 5—Supply of fireworks to unlicensed persons

Amendments 64 to 66 not moved.

Section 5 agreed to.

The Convener: I suspend the meeting for around 10 minutes for a comfort break.

11:21

Meeting suspended.

11:34

On resuming—

Section 6—Applying for fireworks licence: general requirements

The Convener: Welcome back. Amendment 67, in the name of Jamie Greene, is grouped with amendment 68.

Jamie Greene: Amendment 67 proposes that the legal age for the purchase of fireworks be raised from 18 to 21. There are a number of reasons for my mooted that idea to the committee and the minister. It is clear to anyone who lives in a community that has been blighted by the misuse of fireworks and the antisocial behaviour that stems from it that the 16 to 21-year-old cohort often makes up the largest proportion of those who misuse fireworks.

We know that the average age of perpetrators of fireworks-related offences is around 22, although that is subject to further analysis. It has not been easy to uncover that data. If we had the benefit of more time, we could do more work on that. Further analysis of the information would be helpful if we had the time to get it. However, the point is that there is a clear pattern of behaviour from those aged 18 to 21 in the communities where the misuse of fireworks is a problem. Furthermore, there is already an acceptance in sentencing guidelines that young offenders up to the age of 25 are treated somewhat differently in the eyes of the law, so the law already has some precedent of acknowledging that young offenders are dealt with differently, whatever people's views are on that.

Police Scotland's submission to the committee at stage 1 said:

"availability is a concern when considered in conjunction with the profile of many football 'ultra' groups, which often attract teenage boys".

That shows that younger groups are a big concern for the police, which is reinforced by Police Scotland's comment that

"Protecting children and young people from harm is of paramount importance and in order to do this, potential supply chains to young people must be interrupted."

One way to control the supply chain is to raise the legal age of purchase. On the face of it, 21 may seem high in relation to other pieces of legislation, but it is worth noting that other Governments are actively considering raising certain ages. For example, raising the legal age of smoking to 21 has been mooted. There is general consensus—academic and otherwise—that cultural and societal shifts can happen when minimum ages are increased. Cigarettes, although harmful, are not dangerous weapons, but fireworks can be.

I lodged amendment 67 to see what members think of the proposal to raise the minimum age for the purchase of fireworks. It is worth noting that the proposal comes from the fireworks industry and is in its action plan for Government on cracking down on fireworks misuse. Somewhat to my surprise, the industry, which has a vested interest in selling as many products to as wide a cohort of people as it can, recognises the problem of antisocial behaviour among the younger cohort of society. The industry accepts that, and it proposes that the legal age of purchase should be raised to 21. It is unclear what the Government's position on that is, but I am sure that we are about to find out.

Amendment 68 relates to a point that came up briefly earlier in the debate about who may hold a licence and the nature of the licensing scheme. I hope that what I am trying to achieve is helpful to

the Government. If amendment 68 does not do it, perhaps we can revisit the matter.

Amendment 68 seeks to allow a person to apply for a fireworks licence on behalf of a community group that wishes to put on a display, which we accept may be a proportionate and sensible way of conducting fireworks displays, or to allow a group to apply for a licence. That scenario would allow the group to apply collectively for a licence or to appoint a named person to acquire a licence on behalf of the group for a specific event.

That approach would have a number of benefits. The most obvious one is that it would prevent the possibility of fireworks being stockpiled by people who had purchased them individually to contribute to a community-led display. In essence, such a display would be created by many individuals who would each have a licence. In that case, there would be no real control over the quantity of fireworks that were purchased or the scale of the display. That could result in fairly large-scale displays being put on during the prescribed period.

Equally, community groups have expressed concerns that licensing might be time consuming and expensive for small community groups if it has to be done on the basis of individual licences. The obvious solution to that problem would in fact be stockpiling. As would be allowed under the bill, individuals could purchase up to the maximum volume allowed, which I understand is 5kg. That is quite a lot of fireworks, by the way.

I am interested to hear what the Government thinks about the potential for group licences and licences that are obtained by nominated individuals on behalf of a group. There might be repercussions with regard to clarity about the liability of the licence holder, which would need to be discussed. For example, we would need to consider a situation where a group purchased stocks and used fireworks under one licence rather than placing liability on one unlucky individual. The Government might need to explore that further, but the point of stage 2 is to probe such issues. I am keen to hear the debate on my two amendments in the group.

I move amendment 67.

Katy Clark: Amendment 68 is an important amendment. I hope that it will draw out many of the issues that the committee has grappled with over a number of weeks. It has never been clear exactly what the definition of public events will be, and it is not clear whether groups such as community groups will be included in that definition or whether they will be required to obtain a licence in the same way as individuals. That could have massive ramifications. If community groups and charities are considered to be in the group that will require a licence, there will be

financial consequences as well as consequences with regard to the restrictions that will be placed on them about the use of fireworks and when they may organise displays.

Amendment 68 provides an opportunity for us to hear more from the minister on the thinking about how the licensing scheme will operate. I am concerned that community groups will have unreasonable financial pressures put on them if they are covered by the licensing scheme, whereas professional organisations will not face the same requirements and will not have to pay for a licence. We do not know what the cost of a licence will be, but we have been told that it will probably be between £20 and £50.

Jamie Greene: What Katy Clark has said is testament to why we need a solution such as the one that is proposed in amendment 68. As the bill stands, a community group could pay a private company for an organised display, but it sounds as though that would be a lot more expensive than the group paying for a licence itself.

Katy Clark: These are the issues that we are grappling with. I do not claim to be an expert on the regulation of professional firework displays or how they are defined. They might be carried out by professional organisations that meet very high standards with regard to professional qualifications in a well-regulated sector. It might be that the organisations already have strenuous obligations placed on them with regard to regulations, costs, requirements to keep up to date with safety certification and so on. However, it would be interesting to know more about that.

I am sympathetic to amendment 68, but it would be useful to hear more about the Government's thinking on the licensing scheme. Was it always the intention that organisations such as community groups and charities would be included in the licensing scheme or are they considered to be the type of organisations that undertake public events? The committee has discussed the definition of public events on several occasions, but one of the concerns about the licensing scheme is that it is not clear who will be included in it. I look forward to the rest of the discussion on the group.

11:45

Fulton MacGregor: I have some sympathy with Jamie Greene's amendment 67. On the face of it, it seems to make sense that people in the younger cohort are more likely to be involved in problematic firework use. However, on the other side, moving the age to 21 would perhaps negate some of the benefits of people applying for a licence and going through the training that we have talked about. Actually, that group is probably

the one that we want to capture most with the training. Jamie Greene might respond to that by saying that there are other ways to ensure that people are educated, through schools and other methods. However, the licensing gives a unique opportunity for young people to look at the issues and see the consequences.

There is also the issue of criminalisation for 18 to 21-year-olds if they are prevented from getting a licence. Obviously, we want to encourage people to get a licence. On that basis, I am not likely to support amendment 67.

As Katy Clark said, on the face of it, amendment 68 seems fairly sensible, and we heard about the issue in committee. However, I would like to hear what the minister has to say on the amendment, because it raises questions for me. If one person could apply on behalf of a community, could everyone in the community use the fireworks? Who would be responsible for the risks associated with that? There are probably more question marks.

On the face of it, amendment 68 looks quite good, but it probably raises more questions, and I think that the minister is likely to ask us not to vote for it. I will wait to hear what she says on that.

Pauline McNeill: I thank Jamie Greene for lodging amendments 67 and 68, because it is important that we debate the issues.

On amendment 68, as I understand it, the licensing scheme is aimed at individuals. I think that it is aimed at families, social gatherings and people having displays in their back gardens. As the minister said, it is about getting people to realise that, in organising a fireworks display, even at that level, they need to plan. The amendment would widen the scope of the scheme, because an individual could apply for a licence on behalf of a community group.

The first issue that I want to raise is whether that would slightly confuse the purpose of the licensing scheme. That is notwithstanding the fact that I agree with Katy Clark and Jamie Greene that we need to sort out any barriers, financial or otherwise, for community groups in organising displays, where that is desirable. However, I wonder what there is in the bill as it stands that would prevent an individual from applying for a licence and using it for a community purpose. Does the bill already cover that?

Jamie Greene mentioned the issue of liability. As the bill is constructed at the moment, and based on an ordinary understanding, the individual who held the licence would be responsible, even though they held it on behalf of a community group. It would be the same philosophy for anyone. There might be difficulty in sorting that out. If I was to support amendment 68, I would

want us to be clear that the licensing scheme is for individuals, but that there is something else for organised displays involving community groups.

It is important and valid to have a debate on the minimum age. I have never subscribed to the view that there should be a minimum age for every purpose. Some people have argued that, because people can do certain things at 16, they should be able to do other things. That is a nonsense argument because, in other parts of the legislation, it is appropriate to have a minimum age of 17 or 18. Of course, we have signed up to the United Nations Convention on the Rights of the Child, which uses the age of 18. Amendment 67 would take the age beyond that.

If the amendment is intended to highlight how dangerous fireworks are and that there is a concern for those aged under 21, I would be sympathetic to that. I would not support something that is aimed at criminalising people in that age group because we think that they are more likely to cause issues. It depends on the intention behind the amendment. However, as Police Scotland raised the issue, it is perfectly legitimate to have the debate.

Russell Findlay: On amendment 67 and raising the age to 21, I agree with the points that Jamie Greene made. From memory, in the stage 1 debate, the minister responded by saying that raising the age would not be proportionate or consistent with age restrictions in legislation on other matters, but I am not entirely persuaded that the comparisons are necessarily relevant. Whether we like it or not, it is, as Jamie Greene pointed out, those in that age group who are the greatest problem when it comes to dangerous misuse, rather than general noise and so on.

Like Fulton MacGregor's proposal on education, Jamie Greene's proposal seems a sensible move and a bold one. I think that it would have public support—and, indeed, it has the industry's support, which will perhaps surprise people. I am curious to hear the minister's response.

There is a specific issue in relation to amendment 68, which has been touched on, around liability and insurance. What would be the position if an individual licence holder was acting on behalf of a community organisation? Has the Government sought any advice from or had a conversation with the insurance industry as to whether such a person would be liable as an individual or whether the community group could share the liability or take the responsibility? Could there be a form of licence that did both, which the individual could apply for on behalf of group A? Is there another way of dealing with the issue?

Rona Mackay: To be honest, I have a lot of sympathy with amendment 67, which seeks to

amend the age limit, but there could be unintended consequences. It could push more people into buying by proxy for 20-year-olds, for example, and it would risk widening a black market. However, I will be interested to hear what the minister has to say on it.

Ash Regan: We have heard Mr Greene speak about raising the minimum age to apply for a licence and about seeking to add a provision to enable a fireworks licence to be granted to an individual on behalf of a community group or charity.

With regard to the minimum age, the Pyrotechnic Articles (Safety) Regulations 2015 make it an offence to make fireworks available on the market to anyone under 18 years old. If the amendment were accepted, the legal age to purchase fireworks would remain at 18 while the age that someone could apply for a licence to be able to lawfully possess and use fireworks in Scotland would be 21.

I disagree with Mr Findlay—I think that there are comparable age-restricted products in licensing schemes in Scotland, such as the scheme for air weapons, which align the permitted age to purchase the product with the minimum age for licensing.

The Scottish Government is of the view that 18 is an age at which most persons are able to assume the full rights and responsibilities of adulthood. Denying persons aged 18 to 21 the right to apply for a licence to possess and use fireworks, when it is deemed to be appropriate for them to possess and use other goods that require similar levels of maturity, could undermine—and possibly discredit—the fireworks licensing system.

That could also discourage compliance with the law—a point that was made, I think, by Rona Mackay. It could also remove the opportunity for better training and education in safe, lawful and appropriate possession and use of fireworks, as per the mandatory training course, which is the point that Fulton MacGregor made. Although I am sympathetic to the intention behind it, I cannot support amendment 67.

Amendment 68 seeks to include a specific provision enabling a person to apply for a licence on behalf of a community group or charity. There were no calls during stage 1 from community groups, or similar organisations, to include additional provisions within the licensing system to enable a licence to be applied for on behalf of that type of group.

In fact, the bill has been drafted to include exemptions to enable community displays to continue to take place. There is nothing to stop a member of any such group applying for a fireworks licence, should they wish to do so. That provision

in relation to community groups is set out in section 4(3), which states that a person with a fireworks licence can “purchase ... possess or use” fireworks on behalf of their own group or, indeed, another group.

Jamie Greene: I appreciate that very helpful feedback. I know that the amendment is of a more technical nature, but I would like clarification. If a community group wants to put on a display, it still has to nominate an individual who can use their own personal licence to purchase, possess and use fireworks on its behalf. That shifts the liability, responsibility and burden entirely on to the individual in question, not the group. Does that not strike you as a bit of a problem? Why will paid-for organisations and companies that put on professional displays be exempt from the need to hold a licence while community groups that want to put on a similar display will not be? We have not really addressed the issue of how community groups that are not in a commercial environment can put on displays other than through their having to rely on the good will of individuals in the group to use their licences and make multiple purchases of what could be fairly large volumes of fireworks. Does that not defeat the whole point of the bill?

Ash Regan: The licensing scheme is designed to be used by individuals. The member is therefore correct: the individual would apply for a licence, not the community group, and in that case they would be responsible only for use of fireworks. Some wider issues about organised displays have been raised, but they do not fall within the scope of the bill; instead, such displays are covered by a public entertainment licence and would potentially include public liability insurance. Just to clarify, I point out that an individual would be responsible for only the fireworks element of a display, not the wider display itself.

It is unclear how amendment 68 would work in practice. It does not enable a licence to be applied for or used differently than is currently drafted; the licence is still held solely on an individual basis. I am concerned that if the amendment were accepted, it could be perceived that, because a licence had been granted to a person on behalf of a community group or charity, everyone connected to that group or charity would be permitted to use it. I wonder whether the member will take that point on board, because it would be at odds with the system’s aims of ensuring that everyone who is permitted to purchase and use fireworks in Scotland knows how to do so safely and lawfully, having completed the mandatory training course. I am concerned that the amendment could create a situation in which members of such groups inadvertently commit an offence by using a licence that has been granted on behalf of a community group to a person.

Again, I am sympathetic to the intention behind amendment 68, but for the reasons that I have set out, I cannot support it and ask committee members not to support it, either.

Jamie Greene: Lots of very valid questions have been raised, which in itself proves my point that the issue has not been addressed. Dropping amendment 68 will neither resolve the problem nor answer the questions that we have. There is still a lack of clarity with regard to a scenario in which a community group, charity, organisation, community council or even just a group of people in the same street wants to put on an organised display for whatever reason—perhaps not for profit—as currently happens and will be allowed to continue to happen, and how that will interact with the licensing scheme, which is, as I understand it, aimed at promoting safe behaviour by individuals and barring those whom we expect not to act safely. I understand and get all that, but what is still unclear to me is the quite odd link that is being made between a community group that wants to put on a display having to rely on an individual to use their individual licence and take on individual liability to purchase, possess, store and use fireworks on behalf of the rest of that group, and the ability of multiple individuals in a group to do the same.

Therefore, there is a perfectly feasible scenario in which 100 people in a street all use their licences to buy 5kg of fireworks and put on a 500kg firework display. That is substantial and would be perfectly legal.

12:00

I think that we are still not there with the legislation, and there are still unanswered questions, which community groups might want to be answered ahead of stage 3. Although for technical reasons my amendment 68 would probably create issues—which was not the intention—those issues could be fixed. However, I think that the Government still needs to come back to clarify the position around community groups and charities, as opposed to public displays. I do not think that that issue has been cleared up.

Katy Clark: Given the discussion that has taken place, is Jamie Greene’s understanding that the effect of the bill will be to push community groups down the path of using professional bodies? That is perhaps the direction of travel that we are going in. On the basis of the bill, those bodies can operate all year round. Does Jamie Greene think that that is probably where we are going?

Jamie Greene: Here is where it is interesting. I hope that the minister takes cognisance of this. Community groups that want to put on a display will have two choices under the bill. The first

choice is that, if they want to put on a display at any point in the year, they can pay a private company to do so, because such companies are exempt both from the licensing scheme, which is based on individuals, and from the provisions in the bill about permitted days of use. Therefore, if it has enough money to do so, the justice committee community group could put on a display at any point in the year by paying someone to do it. If the group does not have enough money to pay someone, it can only put on a display during the period of permitted use.

Ash Regan: Will the member take an intervention?

Jamie Greene: I will give way in a second. You are welcome to clarify, if I am wrong.

The group could put on a display by using the licence of an individual in the group, but only during the permitted periods. That is my understanding; if I am wrong, I ask the minister to correct me.

Ash Regan: That is not correct; you are half right. You are right about the professional displays, but exemptions also apply to public displays, so they are not constrained by the permitted days of use.

Jamie Greene: That is even worse. We will come on to debate the relevant group of amendments, but we now have a scenario in which anyone could use their status as a community group, however that is defined—I have tried to define it using the Community Empowerment (Scotland) Act 2015. There would be nothing to prevent a group of people from saying that they are putting on a community display and claiming exemption at any point in the year. We could have displays every day of the year, which surely defeats what the legislation is trying to achieve.

Pauline McNeill: I agree with all that, but I have two concerns. The first is that, as I understand it, the scheme—although it is flawed—was designed to deal with individuals and not community groups. Perhaps the minister could confirm whether there is anything in the bill that would prevent an individual from applying on behalf of a community group, which is what Jamie Greene's amendment is proposing. I do not think that there is anything in the bill to prevent that, but that was not the purpose of the scheme.

Although I agree that it is all a bit of a mess, I am not sure that I would be happy to legislate to allow community groups to nominate an individual under the proposed scheme, because they are likely to buy more fireworks because they are for a public display.

I agree that the issue has not been addressed, but do you think that amendment 68 might negate the main purpose of the scheme, albeit that the scheme is flawed?

Jamie Greene: Yes, I am happy to concede that my amendment 68 might not be the solution to the conundrum, but it has shown that there is still a conundrum that is unaddressed. I do not know how the Government intends to respond at stage 3, but the matter needs to be fixed. It might be up to individual members to lodge amendments at stage 3 to clarify the position.

The debate also raises the wider issue of the exemptions and the permitted days of use, and it raises the very real concern that Pauline McNeill mentioned that many individuals in a group will simply use their individual licences to acquire fireworks and put on a display. It is very much an unregulated environment, in that respect. We could have a lot of people who just happen to be using their licences to buy and set off fireworks at the same time in the same place. Quelle surprise; what a coincidence. It is not a very co-ordinated approach to dealing with public displays. Therefore, I ask the Government to reflect on that point.

I do not have a view on raising the age; I have lodged amendment 67 because it is worth having a debate.

I am intrigued as to whether the Government has consulted on that specific question. By that I mean this: were the public ever asked if the minimum age for purchase of fireworks should be raised from 18 to 21? If that question was asked, what was the answer? If it was not, why? If we were to ask that question now—while the issue is on the public agenda—what would people say? It is not for me to conjecture what the public's answer might be, but I guess that a fair proportion might be sympathetic to that—more so because the industry is sympathetic to it.

There is space for consultation around the issue or, at least—in the bill or somewhere in legislation—on the Government's ability to change the age in the future. I presume that the bill is not set up so that the minimum age could be raised in the future, through this or other legislation, if it became apparent that that was the will of people, direction of travel or something that would benefit society.

Not agreeing to amendment 67—or not pressing it—will not address the issue that people aged between 16 to 21 are the group who are most likely to be offenders in misusing fireworks. For that reason, I have lodged amendments about education and so on, to which I will speak later.

The Convener: Can you confirm whether you will press amendment 67?

Jamie Greene: I will not press amendment 67.

Amendment 67, by agreement, withdrawn.

Amendment 68 not moved.

Amendment 14 moved—[Ash Regan]—and agreed to.

The Convener: Amendment 1, in the name of Pauline McNeill, is grouped with amendment 69.

Pauline McNeill: The cost of the licence was the subject of considerable questioning and debate at stage 1. A number of members were concerned about what the licence fee would be, and I acknowledge that the Government is alive to the issue.

Some people cannot afford to pay even £20 for a licence, but there is agreement that there is a big difference between £20 and £50. I want to probe that issue, as I think that there should be an upper limit in the bill. I have suggested that it should be £25. I admit that the amount is arbitrary, but I thought that going above £25 would make the licence unaffordable for a lot of people.

It concerns me that the scheme is designed to pay for itself yet the committee has no indication of what that looks like, as we do not know how onerous the scheme is. Will it be a tick-box or a video training exercise? That means we cannot imagine what the cost to the Government of running the scheme will be, and we cannot see how it will pay for itself.

For many families who can just about afford to buy fireworks, the additional cost of a licence could be prohibitive. It gives me serious cause for concern that there is nothing in the bill about that. If the principle is to make people think and plan, why should there be a fee at all?

The whole idea is going to fail if we do not get this right, so I want to probe the issue. I will not vote to pass the bill at stage 3 without some serious commitment from the Government to addressing that question.

Amendment 69 seems to be worded better than my amendment in referring to the rate of inflation, so I will be happy to support it if it is moved.

I move amendment 1.

Russell Findlay: Pauline McNeill's amendment 1 does much the same thing as my amendment 69 would, albeit that amendment 1 specifies a fee, which, for obvious reasons, would be unusual in legislation. We are approaching the same problem with a slightly different solution. Instead of trying to set a fee now that would quickly go out of date, I seek to ensure full consultation with all relevant stakeholders about what would be considered an affordable and reasonable sum to charge for a licence.

As we know, the issue depends on regulations being introduced after the passing of the bill. Even in normal times, the amount that is charged for a licence could hugely influence the number of people who would be willing to apply for it. If the licence became disproportionately expensive and a deterrent to going down the legal route, that could lead to black market sales and so on.

Furthermore, future price increases should be capped by pegging the fee to the standard inflation-related mechanism that is typical of other legislation. There are a number of ways of doing that—I am sure that the minister can keep me right.

Fulton MacGregor: I have quite a lot of sympathy for amendments 1 and 69. From what I picked up, Pauline McNeill and Russell Findlay do not sound as though they are coming at the issue in a hard fashion. Obviously, Pauline will sum up on amendment 1. I think that the amendments are a request to the Government to say more about its thinking in this area, because the committee has had quite a lot of discussion about it.

It goes back to my earlier point. The whole purpose of the scheme is to get folk on to the licence through the training. The fewer barriers that there are to that, the better. It is common sense that the higher the fee is, the more people will decide not to get a licence.

We have to be honest. We are in the middle of a cost of living crisis that is having an impact on all our constituencies. My constituency is very much impacted. I am not an expert on costs and prices or on where the public might be with that, but I agree with Pauline McNeill that £20 to £25 will seem more reasonable than £50 in people's minds when they are struggling to heat their homes.

Like other members, I am interested in hearing the Government's thoughts on the issue. I know, from the session that the minister attended, that the Government is very conscious of the issue—it has always been very conscious, across the board, of the cost of living.

Jamie Greene: There is a lot of sympathy in the room today. It is very nice, but nobody ever votes for my amendments. *[Laughter.]* Thanks anyway.

Russell Findlay: I do.

Jamie Greene: Thanks, Russell. It is just as well.

My sympathy for amendment 1 is based on the fact that the level of the fee sounds like a reasonable number. Putting numbers in primary legislation is difficult, dangerous and probably not sensible, but it might be a principle on which the committee can work with the Government, ahead of stage 3, to see how the Government will go about setting the fee and the work that will need to

go into that. If that process were included in the bill, it might address some of the issues that members have raised. We will all work constructively on that. If Pauline McNeill is minded not to press amendment 1, we should revisit the issue.

That flows into my second point, which is the inflationary cap that we have sought to achieve in amendment 69. There are other ways of wording it—I have seen various pieces of legislation that peg increases in different ways. There are a number of disposals available to the Government for that. If the Government has a problem with the way in which we have set it out in amendment 69, we could perhaps word it in a better way. Again, the amendment can be withdrawn and we can come back to the issue. However, all of this paints a wider picture.

12:15

Amendment 90 sits in the grouping on post-legislative scrutiny, unfortunately, but it could equally sit very well in this group, as it deals with the process that the Government should set out. The policy intention surely is not to put people off getting a licence. For someone to get a licence, they go through the safety training course and get a certificate. Surely we want as many people as possible to get a licence, so anything that is prohibitive should be frowned upon by us all. Again, it is an issue that I think we could sensibly revisit.

Ash Regan: I understand that amendments 1 and 69 seek to ensure that the licence fee and any subsequent changes to the fee level are proportionate and that the licence is accessible to the people of Scotland. I am sympathetic, and I understand that Pauline McNeill has lodged amendment 1 as a probing amendment in order to discuss the issue further. That is totally understandable. However, I do not consider that the amendments are the most effective way to ensure that the licence fee is fair.

Amendment 1 seeks to set an upper limit of £25 on the licence fee. I consider that that would preempt the consultation process that is required to seek views on the licence fee. It would also mean that an assessment of the running costs could not be undertaken before a limit was placed on the amount, meaning that it would not be possible for operational costs to be properly considered when setting the fee.

Both amendments 1 and 69 seek to ensure that fee increases are in line with inflation. I think that there are some technical problems with that. The amendments do not include or refer to a measure to define the rate of inflation.

A number of members have mentioned that it is problematic to state a fee in the bill. That is because placing a statutory limit on the fee, or on the amount of fee increase that is permitted, could lead to a protracted process of amending primary legislation to adjust the upper limit or frequent use of secondary legislation to increase the fee in small increments. So, there are practical issues with the amendments as well.

I remain committed to ensuring that the licence fee is proportionate and fair. It will be set following wide-ranging consultation—which I hope addresses one of Russell Findlay's points—and at a rate that ensures that, although robust checks and balances are in place, the fee is not a restrictive barrier to the safe and lawful use of fireworks.

I ask that amendments 1 and 69 not be pressed. If they are pressed, I urge the committee not to vote for them.

The Convener: I call Pauline McNeill to wind up and to press or withdraw her amendment.

Pauline McNeill: I saw amendment 1 as a probing amendment, and I imagined all the arguments against it. I acknowledge that we would not necessarily want to put it in the bill, and I can see the problems with doing that.

However, I have to confess that the term “running costs” alarms me. The minister is still asking the committee and the Parliament to vote for a bill when we do not know what those running costs will be. The minister does not know what the consultation will bring up. I wonder what ministers would do if the running costs turned out to mean that the fee would be set at £30 or £35, which would be between £20 and the upper limit of £50. Have you thought about that, minister? Where would that leave us?

I would not want to stand in the way of the Government running a consultation, but it concerns me that I would have to act in good faith, because we will not know the result until after we have passed the bill and the Government has run the consultation. What if the running costs of the scheme meant that the fee would be higher than £25? I cannot imagine that ministers would be happy with that. Would you then take the view that you might have to run the scheme at a loss? I would be grateful if you would answer that question, minister.

Ash Regan: I appreciate what the member is saying, and it is understandable that she is asking the question. I cannot really answer it, though, because we have not been able to undertake the consultation exercise. However, I have made it clear on the record that we are committed to ensuring that the fee is set at a reasonable rate, because I very much understand the arguments

against making the fee a barrier. We do not want to do that; we want to ensure that people are able to do the right thing.

Pauline McNeill: I am not going to press amendment 1, but I will come back at stage 3 to debate the matter again, because I am looking for some comfort—any comfort—from the Government around running costs. There is an issue: if the consultation showed that the running costs would reach a level that none of us would be happy with, what would we do then? I hope that we would at least agree that it would undermine people's desire to be part of a licensing scheme, whatever we might think of that scheme.

Amendment 1, by agreement, withdrawn.

Amendment 69 not moved.

Amendment 47 not moved.

Section 6, as amended, agreed to.

Section 7—Applying for fireworks licence: mandatory requirements

The Convener: We move to group 8. Amendment 70, in the name of Russell Findlay, is grouped with amendments 71, 15, 72 to 74 and 77.

Russell Findlay: Amendment 70 sits alongside my amendments 71 to 74 and 77. Its aim boils down to the nature of the convictions that would need to be disclosed by an applicant and considered in the granting of a licence. What the bill does just now in that regard is—fairly inexplicably, in my view—pretty limited. It would seem to require consideration of only those convictions that relate to firework-related offences. We have already heard that there is a view, or a perception, that such offences are underutilised, so there are very few convictions of that nature. In order to better assess an applicant's suitability for a licence, a proper picture of any criminal offending would be hugely beneficial.

With regard to disclosure, we believe that all convictions should be disclosed. That does not mean that the process would be detrimental to the applicant—it would simply allow those who are making the decision to have a complete picture.

With regard to the decision-making process, rather than being viewed through the narrow lens of what the bill proposes, it should include consideration of any conviction under solemn proceedings, not just those that are listed. That is about public safety and ensuring that due and proper consideration is given to the suitability of applicants, case by case, and based on information being available to those who are making decisions. It is a private process—it is not about compromising people or forcing them to

disclose their past in an inappropriate way. That is essentially the thinking behind the amendments.

I move amendment 70.

Ash Regan: Amendment 15 will remove the requirement for disclosure, during the application process, that covers only spent convictions, and widen the provision to include any relevant conviction, whether that conviction is spent or unspent.

The Management of Offenders (Scotland) Act 2019 reduced the periods in which a conviction becomes spent. For example, a fine is considered spent and therefore does not need to be disclosed after 12 months, rather than the previous period of five years. For those who are under 18 when they are convicted, the disclosure period for a six-month prison sentence has been reduced from three and a half years to one and a half years, and for a fine from two and a half years to six months.

Following careful consideration during stage 1, I consider that amendment 15 is a proportionate and balanced way to strengthen the effectiveness of the licensing system while ensuring that only relevant offences are taken into consideration.

I want to make clear that a person's having a previous conviction does not lead to a blanket ban on their holding a fireworks licence, nor will disclosure of such a conviction lead to an automatic refusal of a licence application. The purpose of the amendment is to allow an informed and balanced decision to be made on each application.

Although I understand that Mr Findlay is keen to ensure that a robust system is in place, I consider that amendments 70 to 74 adjust the wording of the disclosure requirement in a way that could cause confusion and which does not substantively change the requirement on applicants, and, therefore, I do not support them.

However, in relation specifically to the requirement to disclose convictions for offences involving fire, I can see the potential value in progressing an amendment to that effect. That would include offences such as wilful fire raising, and I consider that there is a valid point to be made that it may not be appropriate for those who have demonstrated such past behaviour to be able to hold a fireworks licence. I would welcome further discussion with Mr Findlay to explore that specific point further ahead of stage 3.

I do not consider amendment 77 to be necessary or appropriate to include in legislation. Scottish ministers will, of course, take into account all disclosed convictions when making an assessment of whether to grant a licence.

I do not support amendments 70 to 74 and 77. I encourage Mr Findlay not to press amendment 70

and not to move the others, and I hope that the committee does not support them if he does so. However, I clarify to Mr Findlay that, on amendment 74, I would be happy to work with him ahead of stage 3 in order to create an amendment for stage 3 that I can support at that point.

Jamie Greene: That is a welcome offer. The issue around instances where the misuse of fire has been a factor was quite an obvious one that jumped out at us in the first instance. Clearly, arson or other serious instances of misuse of fire should prohibit someone from obtaining a licence, or, at least, should be explicitly recorded on a person's application in order to inform the licensing decision.

However, we believe that it is clear that there are other sorts of behaviour that should be disclosed on the application to inform the decision-making process. It strikes me that, in a scenario in which someone is a serial offender in relation to antisocial behaviour, whether fireworks have been involved or not, there is a judgment to be made about whether they are a fit and proper person to hold a fireworks licence. That is what is missing from the essence of the relevant offences in section 7(4).

The four offences that the Government has explicitly chosen to put in section 7(4)—offences under the Fireworks Act 2003, the Pyrotechnic Articles (Safety) Regulations 2015, the Explosive Substances Act 1883 and the Explosives Act 1875—are all related only to fireworks, which means that the provision does not address the serious issue of people with convictions for antisocial behaviour and more serious offences, including those convicted on indictment, which my colleague also wishes to add.

There is scope for offences in addition to the misuse of fire to be taken into account by those who administer the licences, and for disclosure of those offences to be made mandatory, if, indeed, disclosure is not an explicit requirement. Serious offences should be taken into account, which was the point of expanding the list of offences from those under the four pieces of legislation in section 7(4). Even if we do not move the amendments, the Government could consider the issue ahead of stage 3, because, ultimately, a fit-and-proper-person test must apply to the question whether someone is suitable to hold a licence.

12:30

Fulton MacGregor: I cannot support the amendments in the name of Russell Findlay as they stand just now. Having to disclose every offence would be unnecessary and possibly far too intrusive. There are tight regulations on the disclosure of offences, which happens only when

someone appears at court for sentencing, say, or in other such scenarios. I also point out that the minister's amendment 15, which I am minded to support, now means that spent convictions will have to be disclosed, which is perhaps even more important.

However, I think that Russell Findlay's amendment 74 has some scope, and it is good to hear the minister say that the matter will be looked at before stage 3. There is scope for widening the provision beyond, say, fireworks offences—indeed, we can all think of various offences that might be relevant—but the Government and Russell Findlay will have to do a lot of work on how that might work and whether such a provision might infringe other human rights.

As I have said in relation to the last three groups of amendments, we want people to use the licensing scheme, and if someone with an offence from 20 years ago does not really know whether it will come up, they might well be put off applying for a licence and continue to use fireworks anyway. However, although a lot of work needs to be done, I definitely welcome these moves and think that there is scope to increase the offences to be disclosed.

Russell Findlay: I welcome amendment 15 in the name of the minister, which extends the provision to spent convictions. It makes perfect sense. I also welcome her suggestion that we look at amendment 74 and broaden the scope of offences to be disclosed. Indeed, she has identified the most obvious offences—wilful fire raising or offences of that nature. Jamie Greene talked about offences related to more general antisocial behaviour and violence, and off the top of my head, I would suggest convictions related to football or violence against emergency service workers, which currently do not have to be disclosed or considered. I welcome the move in that respect, and there is work to be done on the matter.

Ultimately, this is about creating a system that is not only fair but robust and which, as Fulton MacGregor suggested, does not deter people who are perfectly entitled to hold a licence or are legitimate licence holders. Nevertheless, offences that common sense would suggest would be of concern should be considered.

The Convener: Do you wish to press or withdraw amendment 70?

Russell Findlay: As it relates to convictions, convener, I think that I will press it.

The Convener: The question is, that amendment 70 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. There is an equality of votes. Therefore, as convener, I shall use my casting vote to vote against the amendment.

Amendment 70 disagreed to.

Amendment 71 moved—[Russell Findlay].

The Convener: The question is, that amendment 71 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
 Findlay, Russell (West Scotland) (Con)
 Greene, Jamie (West Scotland) (Con)
 McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
 Mackay, Rona (Strathkelvin and Bearsden) (SNP)
 Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
 Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. There is an equality of votes. Therefore, as convener, I shall use my casting vote to vote against the amendment.

Amendment 71 disagreed to.

Amendment 15 moved—[Ash Regan]—and agreed to.

The Convener: Amendment 16, in the name of the minister, is grouped with amendments 75, 17 and 80.

Ash Regan: The fireworks training course is a core element of the licensing system and is crucial to achieving the policy objective that people who are permitted to purchase, possess and use fireworks in Scotland have adequate knowledge of how to do so in a safe, lawful and appropriate manner.

Following consideration of the committee's stage 1 report, I considered it appropriate to progress amendment 16, to ensure that the bill makes it explicitly clear that the training course will include information about the law on fireworks. That will include information such as when and where fireworks can be used, as well as the rules

around the safe storage of fireworks. Amendment 17 ensures that the criteria for a licence being granted will also reflect that.

It has always been intended that that information would be part of the training course. However, I hope that the specific inclusion of the word "lawful" provides assurance that the training course will make it clear to people what is—and, importantly, what is not—legally permitted in relation to fireworks in Scotland.

In relation to amendment 75, although I do not consider specific reference to the Procurement Reform (Scotland) Act 2014 to be necessary, I reassure Mr Greene and the other members of the committee that, if such a procurement is undertaken for the purposes of the training course, all legal requirements will be complied with throughout that process.

Mr Greene has also lodged amendment 80, which seeks to enable the Scottish ministers to

"make provision for how the successful completion of a fireworks training course is automatically recorded on a digital licence".

There are no restrictions on such automatic processes being put in place through the system if the licence system is capable of that when it is developed. However, I consider that to be an operational matter, which is better suited to being considered as part of the development and implementation of the licensing system.

Although I thank Mr Greene for discussing—

I think that I have moved on too far in my pack of speaking notes, so I will stop there and return to that in a moment.

I move amendment 16.

The Convener: It has been a long morning.

Jamie Greene: It is always nice to be thanked for something that I have not yet said. *[Laughter.]*

I have no problem with amendments 16 and 17. I did not really understand what the amendments do, so they must be sensible.

Amendment 75 simply seeks to ensure that ministers will comply with procurement legislation with regard to the fireworks safety courses. Given that there is an expectation that the certification and licensing scheme will be Government led, we want to ensure that, during that procurement exercise—to come back to Pauline McNeill's point—we get value for money. We also want to ensure that the scheme is future proof, so that many of the requirements of the licensing scheme can be easily integrated with certification that is technologically future proof, that it includes transparency and accountability and that it allows data sharing, where that is relevant, suitable and

proportionate. If the minister has no problem with the wording of amendment 75, I do not see why we cannot put it in the bill. It is not controversial.

The same goes for amendment 80. I think that it would be very helpful if the successful completion of the safety training is clear on the licence and not just a requirement of getting the licence. Again, if that is not controversial, I do not know why it cannot be on the face of the bill. I appreciate that there is an argument that it could be an operational matter but, as far as possible, the committee is keen not to shove too much of that into secondary legislation when we know that it would be beneficial to put it in the primary legislation. That is what these two—quite helpful—amendments seek to do.

The Convener: As no other members wish to speak, the minister will wind up.

Ash Regan: I do not consider that the amendments that Mr Greene has lodged would make necessary changes. As an example, amendment 75 would have no practical effect, because the 2014 act already applies and will already have to be complied with. For the reasons that I have given, I do not support Mr Greene's amendments and I ask him not to move them.

Amendment 16 agreed to.

Amendments 48 and 72 to 74 not moved.

Section 7, as amended, agreed to.

Section 8—Fireworks training course

Amendments 75 and 49 not moved.

Section 8 agreed to.

Section 9—Grant of fireworks licence

The Convener: We move to our final grouping today. Amendment 76, in the name of Jamie Greene, is grouped with amendments 78 and 79.

Jamie Greene: How long have we got? It is nearly lunch time, so I will try to be brief. Amendment 76 would place on the Scottish ministers the burden of ensuring that the information that applicants disclose is accurate. Section 9 makes it explicit that ministers must check that an application has been received, that the fee has been paid and that the applicant can demonstrate that they can possess and use fireworks safely. However, the section does not overtly mandate ministers to verify the accuracy or veracity of information that is provided in an application. If the section says that, the provision is hidden away—I cannot find it. The problem with that approach is that it places the legal onus on the applicant alone to provide truthful information—for example, about convictions, which we have discussed.

Amendment 76 would make it clear that, when ministers administer the scheme, the licence scheme operator would—before a licence was issued—be the ultimate check and balance for the information that had been given. The committee's stage 1 report expressed concern about technical and legal issues that might arise from data sharing between agencies in relation to information that is provided. It is still entirely unclear how the licence scheme operator will ensure that true data sharing arrangements are in place. The easier and more technically competent that is, the easier it will be for ministers to stomach my amendment.

On the legal point, I argue that, before issuing a licence under a scheme that they have created and which they operate, ministers have a duty to check the veracity of information that is provided. That is a prerequisite to a licence being issued to someone who can subsequently purchase, possess and use fireworks. That covers amendment 76.

I hope that amendment 78 will be a talking point. It requires purchasing history to be recorded. The first question is why we need that. I am concerned that, as the bill stands, there is nothing to prevent a licence holder from making multiple purchases to the maximum allowed volume of fireworks per purchase not just on one day or in one place but on multiple days or in multiple places. Theoretically, a white van man could go from store to store and go online and, in effect, purchase a stockpile.

12:45

I know that it is not practical and perhaps not even possible to mandate retailers to record and share purchase history data. That would be ideal, but I know that the minister will confirm that we cannot do that. The next question is how we solve that problem and address the potential behaviour that I outlined.

We can ensure that the licence holder uploads or records purchase data on their licence if it is technically feasible to do so. Perhaps another iteration of amendment 78 could or should say that. A fairly insubstantial technical solution could monitor purchase history, perhaps even anonymously, and highlight red flags to authorities. In a scenario in which a white van man seller uses his perfectly legal licence to make repeated and multiple purchases across different venues, modes or geographies, it would become apparent that illegal activity might be taking place.

If we are going to use a new fit-for-purpose licensing scheme, let us get it right from the start and make it a scheme that actively helps the police, trading standards authorities and ministers to not only track but flag problematic behaviour

before it becomes an issue. If the Government does not think that that is a good idea or that amendment 78 is the right way to do it, I am open to alternative means. However, at the moment, it would be perfectly possible for someone to use their licence to stockpile and illegally sell or misuse fireworks. The licence itself will not stop people who abuse the system—that will happen anyway—but the use of the data, which is big data, will powerfully prevent abuse before it happens. Amendment 78 might be one way of doing that.

I move amendment 76.

Russell Findlay: Amendment 79 is pretty straightforward. The purpose of seeking to limit the duration of the licence to two years is that, to be frank, five years is too long. It could be open to abuse and encourage stockpiling or black-market behaviour by a licence holder. Furthermore, much can happen with an individual in five years, whereas two years seems like a reasonable length of time to have a licence. One year might be considered prohibitive but, if the licence is to cover bonfire night, it could do so over two years.

A line must be drawn in the sand somewhere and I will be curious to know how the period of five years was arrived at. It might be that there is a good reason or some proper research has been done that came up with that figure, or it might be that someone somewhere just decided that it is a good number. I would be happy to hear the minister's response to that.

Katy Clark: I am worried about the onerous nature of the licensing scheme and, therefore, have concerns about restricting the period to two years, given the additional cost. I wonder whether there is another way of dealing with the matter. For example, if somebody is convicted of a fireworks offence—or, indeed, another offence—there could be an obligation on them to contact the relevant authorities. I put that into the debate for consideration.

Russell Findlay: I will just respond to that directly. There is a mechanism to revoke licences, which would include consideration of certain convictions, but that is subject to further discussion.

The point about cost is a good one. I wonder whether, if there was a two-year limit or something like that, there would be a way of having an initial cost of obtaining a licence that was set at whatever number is arrived at, and then a renewal cost that was a fraction of that.

Ash Regan: Amendment 76, in the name of Mr Greene, seeks to place a requirement on the Scottish ministers to be satisfied that the information that is provided on previous

convictions, revoked licences and a successfully completed training course is accurate.

During stage 1, no concerns were raised that the bill as drafted left any gaps or issues regarding the information that is to be provided during an application and whether that information will be considered when the decision is made to grant a licence. It has always been our intention that that will occur in practice as part of the process of considering and, most importantly, verifying applications. Section 18 provides for regulations to be made about exactly how information that is contained in licensing applications is to be verified, which will allow for a more nuanced and detailed approach to be taken.

Amendment 78 sets out that a fireworks licence will be valid only if it contains information about the licence holder's purchase history. I do not consider it to be necessary to require licence holders to upload information on each purchase that has been made using the licence. The licence will be held by an individual for a period of time, rather than being linked to specific transactions involving fireworks.

It would not be particularly cost effective to incorporate that very specific requirement in the bill with, for the most part, no appreciable benefit from the information that it captured. If amendment 78 was accepted, I would be concerned that it could lead, for instance, to all licences being invalid if the purchasing history could not be uploaded due to unforeseen circumstances, technical issues or something of that nature. For that reason, I cannot support the amendment.

Amendment 79, in the name of Mr Findlay, seeks to restrict to no longer than two years the length of time for which licences can be given. Stakeholders have expressed varied opinions on the length of time for which a licence should be valid. It is important that we strike a proportionate balance and have robust checks without being overly restrictive and requiring licences to be renewed too frequently.

The working assumption is that the licence will be valid for five years, which was carefully considered during the development of the bill. That consideration included looking at responses to the 2021 consultation and at other similar licensing schemes in Scotland, such as the air weapons licensing scheme, under which licences are valid for five years.

Ultimately, however, the licence term will be set out in subsequent regulations. The amendment would pre-empt the consultation that we are going to undertake to inform the licence term. That consultation is really important, because it will allow us to get the views of the public and stakeholders and take them into consideration

before we determine what the licence term should be.

The amendment would also limit the ability to adapt to future circumstances and to change the licence term in a timely manner to either reduce or increase the time period, if it was determined that that was more appropriate.

I am not convinced that amendments 76, 78 and 79 are proportionate or necessary, or that they would strengthen the bill, so I do not support them.

Jamie Greene: On amendment 78, I accept the point that a licence might become invalid if the purchase history is not recorded—that would be a by-product of a bad solution. However, I disagree that the information is not useful or helpful. I think that it is very helpful and useful, so I make a plea that, as the licence scheme is developed, the information is recorded where it can be captured and if the technology is available. We still have not addressed the issue of how people might misuse their licence to make repeated purchases of products in various locations and from various sources, with a view to stockpiling and selling on the illegal market. That is a real possibility, and it is unclear how the issue will be monitored. The amendment, even if it is not worded properly, may provide a technical solution to monitor that.

I have an issue with what the minister said about amendment 76, however. I will need to check the *Official Report*, but I think that the minister said, “That is how we hope it will work in practice.” That is very different from having a legal duty. Section 9, “Grant of fireworks licence”, explicitly places a legal duty on ministers that they “may grant a fireworks licence only if—

- (a) a valid application and any applicable fees have been received,
- (b) the requirements under section 6 and 7 have been met, and
- (c) they are satisfied that the applicant can be permitted to possess and use fireworks safely and appropriately.”

What is missing is what amendment 76 would add, which is a requirement on ministers that

“they are satisfied that the information disclosed or provided by the applicant under section 7(1) is accurate”.

It is a fairly simple ask and I cannot see why it would be rejected.

The Convener: The question is, that amendment 76 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Clark, Katy (West Scotland) (Lab)
Findlay, Russell (West Scotland) (Con)
Greene, Jamie (West Scotland) (Con)
McNeill, Pauline (Glasgow) (Lab)

Against

MacGregor, Fulton (Coatbridge and Chryston) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)
Nicoll, Audrey (Aberdeen South and North Kincardine) (SNP)
Stevenson, Collette (East Kilbride) (SNP)

The Convener: The result of the division is: For 4, Against 4, Abstentions 0. There is an equality of votes. Therefore, as convener, I will use my casting vote against the amendment.

Amendment 76 disagreed to.

Amendment 17 moved—[Ash Regan]—and agreed to.

Amendment 77 not moved.

Section 9, as amended, agreed to.

Section 10—Grant of fireworks licence subject to conditions

Amendment 78 not moved.

Amendment 18 moved—[Ash Regan]—and agreed to.

Amendments 79 and 80 not moved.

The Convener: We will pause stage 2 proceedings at that point and resume consideration of amendments to the rest of the bill at our next meeting, on Wednesday 1 June. We will also consider several affirmative instruments at our meeting next week. Those will include criminal justice regulations relating to offences, as well as regulations on legal aid.

I thank the minister and her team for attending.

Meeting closed at 12:58.

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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